Calendar No. 1189

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1177

ADDITIONAL FUNDS FOR OPERATING EXPENSES OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

JULY 28, 1955 —Ordered to be printed

Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. Res. 132]

The Committee on Labor and Public Welfare, to whom was referred the resolution (S. Res. 132), increasing the limit of expenditures of the committee, report favorably thereon without amendment and recommend that the resolution do pass.

PURPOSE OF THE RESOLUTION

The resolution provides additional funds for the operating expenses of the Committee on Labor and Public Welfare, including the cost of hearings and miscellaneous expenses. None of the funds authorized may be used for the employment of personnel.

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Calendar No. 1189

SUBCOMMITTEE OF APPROPRIATIONS

Calendar No. 1190

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1178

STUDY OF TECHNICAL ASSISTANCE PROGRAMS

JULY 28, 1955.—Ordered to be printed

Mr. GREEN, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Res. 133]

The Committee on Rules and Administration, to whom was referred the resolution (S. Res. 133) increasing funds for a study by the Committee on Foreign Relations of technical assistance and related programs, having considered same, report favorably thereon without amendment and recommend that the resolution be agreed to by the Senate.

This resolution would provide $15,000 in additional funds for a review of technical assistance and related programs by the Subcommittee on Technical Assistance Programs of the Committee on Foreign Relations undertaken pursuant to Senate Resolution 36 (84th Cong., 1st sess.) agreed to February 4, 1955. No change would be made in the date, January 31, 1956, on which such review is to end.

The necessity for this resolution is explained in Senate Report No. 1021 (84th Cong., 1st sess.), and in the following letter from the chairman of the subcommittee, Senator Mike Mansfield, to the chairman of the Committee on Rules and Administration, Senator Theodore Francis Green. A budget for the new funds, and the unexpended balance of the old, also follows.

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
July 20, 1955.

Hon. THEODORE FRANCIS GREEN,
Chairman, Committee on Rules and Administration,
United States Senate, Washington, D. C.

DEAR SENATOR GREEN: Senate Resolution 133, increasing funds for a study by the Committee on Foreign Relations of technical assistance and related programs, has been referred to the Committee on Rules and Administration.

The resolution, which was favorably reported by the Committee on Foreign Relations on July 19, would provide an additional $15,000 to the subcommittee which is making the study referred to.

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Senate Resolution 214 of the 83d Congress which created this subcommittee provided $40,000 for the study. These funds lapsed January 31, 1955. Senate Resolution 36 of the 84th Congress continued the subcommittee for an additional year and provided $24,000 for its expenses. This was the amount which was carried on the books of the Senate disbursing office at that time as unexpended. In fact, however, the subcommittee's unexpended balance was $15,000 greater due to the fact that the subcommittee had been advanced $15,000 to cover anticipated expenses which did not materialize. This advance was subsequently returned to the disbursing office and lapsed along with the balance of the subcommittee's original funds.

It will thus be seen that Senate Resolution 133 will merely restore the subcommittee's funds to the amount originally budgeted.

I am enclosing a copy of the report of the committee on Foreign Relations on Senate Resolution 133, as well as a memorandum showing in more detail the purposes for which it is contemplated that the additional funds will be used.

I will very much appreciate it if the Committee on Rules and Administration can consider this matter so that it can be acted upon before Congress adjourns.

Sincerely yours,

MIKE MANSFIELD,
Chairman, Subcommittee on Technical Assistance Programs.

Budget July 9, 1955, to Jan. 31, 1956, inclusive, Subcommittee on Technical Assistance Programs, Committee on Foreign Relations (S. Res. 36, agreed to Feb. 4, 1955)

Unexpended balance as of July 9, 1955	$17,496.26
Additional funds provided by S. Res. 133	15,000.00
Total available July 9, 1955	32,496.26

PROPOSED EXPENDITURES

Salaries:	
Assistant clerk at basic rate of $2,040, gross rate of $4,090.46, 7 months (July 1 to Jan. 31) plus retroactive pay increase to Mar. 1, 1955	2,480.81
2 consultants at per diem rate of $37.82 for 60 days each	4,538.40
Expenses:	
Travel of subcommittee members and staff to countries receiving technical assistance from the United States	23,400.00
Stenographic reporting of hearings	2,000.00
Total	32,419.21

SUBCOMMITTEE ON TECHNICAL ASSISTANCE PROGRAMS

Calendar No. 1192

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1179

INVESTIGATION OF THE NARCOTICS PROBLEM

JULY 28, 1955.—Ordered to be printed

Mr. GREEN, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Res. 137]

The Committee on Rules and Administration, to whom was referred the resolution (S. Res. 137) increasing the limit of expenditures by the Committee on the Judiciary, having considered same, report favorably thereon without amendment and recommend that the resolution be agreed to by the Senate.

This resolution would expand the funds previously authorized by Senate Resolution 67 (84th Cong., 1st sess.), agreed to March 18, 1955, by $20,000 for the purpose of conducting a full and complete study of the narcotics problem in the United States, including ways and means of improving the Federal Criminal Code and other laws and enforcement procedures dealing with the possession, sale, and transportation of narcotics, marihuana, and similar drugs. Such study would end on January 31, 1956.

The amount previously authorized for this investigation by Senate Resolution 67 was $30,000 to which this resolution would add $20,000 for a total of $50,000.

The requirements and necessity for the new amount are explained in a letter addressed by Senator Harley M. Kilgore, chairman of the Committee on the Judiciary, to the chairman of the Committee on Rules and Administration, Senator Theodore Francis Green, as follows:

UNITED STATES SENATE,
COMMITTEE ON THE JUDICIARY,
July 21, 1955.

Hon. THEODORE FRANCIS GREEN,
Chairman, Committee on Rules and Administration,
United States Senate, Washington, D. C.

DEAR SENATOR GREEN: This is in reference to the resolution reported by the Committee on the Judiciary, providing that the limitation of expenditures under Senate Resolution 67, 84th Congress, agreed to March 18, 1955, be increased by $20,000 for the purpose of continuing the investigation into the narcotics problem in the United States to determine the necessity for additional enforcement provisions, as well as to undertake the codification of the statutes on the subject. Attached is the proposed budget for the period August 1, 1955, through January

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31, 1956, of the Subcommittee on Improvements in the Federal Criminal Code which has undertaken this study.

You will recall that the subcommittee originally requested and was authorized a budget of $30,000. Expenditures of $7,750.50 are estimated as of July 31, 1955, which will leave an estimated unexpended balance of $22,249.50.

The proposed increase in funds is primarily necessary to meet the costs of (1) an additional investigator and one additional clerical assistant; (2) travel to and from selected cities in the United States where hearings should be held; and (3) transcripts by official reporters. In this connection, experience has proved the expenses involved in travel, per diem, and transcripts of hearings to be far greater than estimated in the original budget.

The present staff of the subcommittee consists of 3 regular employees, i. e., a chief counsel, an investigator, and 1 clerical assistant. One temporary employee was hired for a 15-day period beginning July 16, 1955, to perform a specialized records task.

The work of the subcommittee is well underway. Since June 1, 12 days of open hearings have been held in Washington, Philadelphia, and New York, during which 100 witnesses have testified for a total of 2,330 pages of pertinent testimony. Innumerable practical recommendations for improving the Federal laws relating to the control of the illicit narcotics traffic have been received from Federal, State, and city officials and are now under study by the subcommittee. Moreover, evidence before the subcommittee clearly indicates that a major overhaul of Federal narcotics laws is urgently needed.

The Committee on the Judiciary respectfully requests the favorable consideration of your committee on Senate Resolution 137.

With kindest regards, I am,

Sincerely yours,

HARLEY M. KILGORE,
Chairman.

A proposed budget of the subcommittee investigating the narcotics problem, inclusive of old and new funds, is as follows:

Proposed budget of Subcommittee on Improvements of the Federal Criminal Code of the Committee on the Judiciary for the period of Aug. 1, 1955, to Jan. 31, 1956

STAFF EXPENSE

Position	Number	Base salary	Gross salary	Monthly salary	Total for period of budget
Staff:					
Legal and investigative:					
General counsel	1	$8,000.00	$13,617.19	$1,134.80	$6,808.80
Investigators	2	5,280.00	9,575.15	797.92	9,574.04
Administrative and clerical: Clerical assistant	2	3,120.00	5,940.18	495.01	5,940.12
Total	5				22,322.96

ADMINISTRATIVE

Travel (inclusive of field investigations, field hearings)	$7,000.00
Hearings (inclusive of reporters fees)	6,200.00
Witness fees, expenses	2,800.00
Stationery, office supplies	1,000.00
Communications (telephone, telegraph, postage)	1,000.00
Contingent fund	1,926.54
Total	19,926.54

RECAPITULATION

Total staff	22,322.96
Total administrative	19,926.54
Total	42,249.50
Approximate unexpended balance of S. Res. 67, July 31, 1955	22,249.50
Funds requested under S. Res. 137	20,000.00
Total	42,249.50

COMMITTEE ON JUDICIARY LIBRARIES

Calendar No. 1193

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1180

CONFERENCE REPORTS

JULY 28, 1955.—Ordered to be printed

Mr. GREEN, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. Con. Res. 36]

The Committee on Rules and Administration to whom was referred the concurrent resolution (S. Con. Res. 36) requiring conference reports to be accompanied by statements signed by a majority of the managers of each House, having considered same, report favorably thereon without amendment and recommend that the concurrent resolution be agreed to by the Senate.

This concurrent resolution is identical with Senate Concurrent Resolution 1 (82d Cong., 1st sess.), agreed to April 11, 1951 (Rept. No. 174), and Senate Concurrent Resolution 79 (81st Cong., 1st sess.), agreed to September 15, 1950 (Rept. No. 2575). Both measures died in the House of Representatives after being passed by the Senate.

The need for the provision of rule which this concurrent resolution would specify, the committee believes, is still pressing and insistent.

As a result of complaints made by various Members of the House of Representatives some 75 years ago, the House adopted a rule on February 27, 1880, requiring every conference report to be accompanied by a detailed statement designed to inform the House what effect matter contained in the report would have upon the measures to which they relate. This rule is part of rule XXVIII of the House, and is still in effect, as follows:

(c) And there shall accompany every such report a detailed statement sufficiently explicit to inform the House what effect such amendments or propositions will have upon the measures to which they relate.

The Senate has no comparable rule although there have been occasions when Senators, or even a majority of Senate conferees, have submitted statements for the Record which have given their interpretations of the conference report ultimately agreed upon. Under this concurrent resolution, such statements would hereafter

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be part of the official record, and would have the concurrence of a majority of the House, as well as the Senate managers, before being accepted. Nothing would forbid the presentation of voluntary statements or explanations, but the joint report of the committee of conference would be the one official explanation.

One of the principal bearings of this concurrent resolution also would be on the courts. In this respect quotations from a report prepared by the Legislative Counsel of the Senate during the 82d Congress are pertinent and to the point.

> Over the years, and especially in more recent years, the courts have come to use the statement of the managers with increasing frequency as an extrinsic aid in helping them determine the intent of Congress. The courts give as much weight to such statement as they do to the committee reports prepared by the standing committees which accompany proposed legislation reported out of such committees. In instances where a bill is almost completely rewritten in conference, the statement is the best extrinsic aid available to the court in determining intent.
>
> Since the statement has become, and will continue to be, an important part of the legislative history of enactments of the Congress, it would seem desirable to have the Senate conferees join with the House conferees in writing such statement. As a practical matter, the Senate conferees can today insist upon collaboration with the House conferees on the text of the statement, since they can refuse to agree to the conference report unless an agreement can be reached as to the matter to be included in the statement. However, in the interest of orderly parliamentary procedure, a change in the rules such as is proposed in the pending resolution would seem to be the better approach.
>
> Unless the courts, the administrative agencies, and the practicing attorney can go to one statement, joined in by a majority of the conferees of both Houses, for a determination of the intent of Congress, they are faced with an unnecessary and difficult problem in attempting to determine such intent. It is quite possible that a court would feel it necessary to disregard all such explanatory statements containing conflicting interpretations and exercise its own judgment as to intent which conceivably could be contrary to the intent of a majority of the Congress (Rept. No. 174, 82d Cong., 1st sess.).

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Calendar No. 1197

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1181

LEGISLATIVE APPROPRIATION BILL, 1956

JULY 28, 1955.—Ordered to be printed

Mr. CLEMENTS, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H. R. 7117]

The Committee on Appropriations, to whom was referred the bill (H. R. 7117) making appropriations for the legislative branch for the fiscal year ending June 30, 1956, and for other purposes, report the same to the Senate with various amendments and present herewith information relative to the changes made.

Amount of bill as passed House	$66,298,175
Amount of increase by Senate committee	26,625,852
Amount of bill as reported to Senate	92,924,027
Amount of appropriations, 1955	85,930,949
Amount of regular and supplemental estimates for 1956	92,641,411
The bill as reported to the Senate—	
Over the estimates for 1956	282,616
Over the appropriations for 1955	6,993,078

GENERAL STATEMENT

The bill provides for the legislative branch $92,924,027, which is $26,625,852 in excess of the amount proposed by the House; $282,616 in excess of the budget estimates; and $6,993,078 over the appropria-

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tions for 1955. The large increase over the House bill is due to the fact that following the practice adopted by the House no action was taken by that body on purely Senate items. This accounts for $25,802,410 of the increase.

SENATE

OFFICE OF THE SECRETARY

The committee had before it a plan for the reorganization of the Secretary's Office which was the basis for the recommended changes in that Office. The following paragraph indicates the changes made:

OFFICE OF THE SECRETARY

For Office of the Secretary, $521,345: Provided, That effective August 1, 1955, the gross annual compensation of the Secretary of the Senate shall be $17,500; and the basic annual compensation of the following positions shall be: Chief Clerk, $8,820 in lieu of $7,500; Parliamentarian, $8,820 in lieu of $14,297.50, and Public Law 253, Eighty-second Congress, is hereby amended insofar as it applies to the compensation of the Parliamentarian of the Senate by deleting "so long as the position is held by the present incumbent"; Assistant Parliamentarian, $7,260 in lieu of $7,000, and Public Law 470, Eighty-Third Congress, is hereby amended insofar as it applies to the compensation of the Assistant Parliamentarian by deleting "so long as the position is held by the present incumbent"; legislative clerk, $7,260 in lieu of $7,000; journal clerk, $7,260 in lieu of $7,000; financial clerk, $8,820 in lieu of $7,320; executive clerk, $4,500 in lieu of $4,380; secretary, $4,500 in lieu of $4,100; assistant secretary, $3,420 in lieu of $3,380; clerk of enrolled bills, $4,500 in lieu of $3,900; secretary to Parliamentarian, $3,000 in lieu of $3,180; custodian of records, $3,000 in lieu of $3,180; assistant bill clerk, $3,000 in lieu of journal index clerk, $2,460; bookkeeper, $3,960 in lieu of clerk, $3,960; retirement clerk, $3,420 in lieu of clerk, $3,420; clerk, $2,520 in lieu of stockroom clerk, $2,460; assistant chief messenger, $2,220 in lieu of clerk, $2,220; reference assistant, $2,520 in lieu of clerk, $2,040; two assistants in document room at $2,520 each in lieu of two clerks at $1,980 each; superintendent, document room, $5,580 in lieu of $5,500; assistant superintendent, document room, $4,380 in lieu of $4,000; first assistant, document room, $3,180 in lieu of $3,420; second assistant, document room, $3,060 in lieu of $2,460; four assistants in document room at $2,520 each in lieu of $2,220 each; chief messenger in document room, $2,280 in lieu of $1,980; librarian, $5,580 in lieu of $4,000; assistant librarian, $4,380 in lieu of $3,120; secretary in library, $3,060 in lieu of $2,220; legislative analyst, $3,840 in lieu of $2,220; five reference assistants at $2,520 each in lieu of one reference assistant at $2,700, one reference assistant at $2,640, one reference assistant at $2,460, one reference assistant at $1,980, and one reference assistant at $1,800; messenger, $2,040 in lieu of chief of library stacks, $1,860; chief messenger in library, $2,280 in lieu of $1,740; keeper of stationery, $5,580 in lieu of $4,000; assistant keeper of stationery, $4,380 in lieu of $2,880; two clerks at $2,520 each in lieu of one clerk at $2,700 and one clerk at $2,040; special officer in disbursing office, $2,700 in lieu of special officer, $2,520; messenger, $2,040 in lieu of special officer, $2,520; chief clerk, stationery room, $3,180 in lieu of press liaison, $2,880; bookkeeper, stationery room, $3,060 in lieu of assistant at the press door, $2,160; chief messenger in secretary's office, $2,460 in lieu of $2,400; chief messenger in disbursing office, $2,280 in lieu of $1,920; assistant chief messenger, $2,100 in lieu of aide to the Vice President, $2,460; eight messengers at $2,040 each in lieu of five messengers at $1,980 each, one messenger at $1,800, and two messengers at $1,620 each; clerk, $2,340; clerk, $2,460; assistant to the majority, $7,320 in lieu of $8,000; assistant to the minority, $7,320 in lieu of $8,000; assistant journal clerk, $3,000; messenger, disbursing office, $2,040; reference assistant, $2,520; three messengers at $2,040 each; and the basic amount available for clerical assistance and readjustment of salaries in the disbursing office is increased by $5,220.

CHAPLAIN

The committee recommends that the compensation of the Chaplain be increased from $2,946 to $5,000.

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OFFICE OF THE SERGEANT AT ARMS

The committee considered a number of requests for increased compensation and creation of new positions, including a reorganization of the Service Department. The committee recommendations are as follows:

OFFICE OF SERGEANT AT ARMS AND DOORKEEPER

For Office of Sergeant at Arms and Doorkeeper, $1,436,230: Provided, That, effective August 1, 1955, the gross annual compensation of the Sergeant at Arms shall be $17,500, and the basic annual compensation of the following positions shall be: secretary, $2,520 in lieu of clerk, $2,400; secretary, $2,460 in lieu of clerk, $2,160; three cabinetmakers at $2,640 each in lieu of $2,520 each; finisher, $2,640 in lieu of $2,520; upholsterer, $2,640 in lieu of $2,520; laborer in charge of private passage, $2,460 in lieu of $2,400; two female attendants, ladies' retiring room, at $1,860 each in lieu of $1,800 each; three laborers at $1,980 each in lieu of $1,920 each; three skilled laborers at $1,920 each and one skilled laborer at $1,980 in lieu of four skilled laborers at $1,920 each; one laborer at $1,740, twenty-seven laborers at $1,680 each, and three laborers at $1,620 each in lieu of twenty-nine laborers at $1,620 each; assistant chief janitor, $2,460 in lieu of $2,400; night foreman, $1,980 in lieu of $1,920; superintendent, Press Gallery, $4,860 in lieu of $4,800; first assistant superintendent, Press Gallery, $4,200 in lieu of assistant superintendent, Press Gallery, $4,100; second assistant superintendent, Press Gallery, $2,880 in lieu of assistant superintendent, Press Gallery, $2,800; third assistant superintendent, Press Gallery, $2,880 in lieu of assistant superintendent, Press Gallery, $2,800; fourth assistant superintendent, Press Gallery, $2,280 in lieu of assistant superintendent, Press Gallery, $2,200; secretary, Press Gallery, $1,860 in lieu of clerk, Press Gallery, $1,800; superintendent, Radio Press Gallery, $4,800 in lieu of $4,700; first assistant superintendent, Radio Press Gallery, $3,060 in lieu of assistant in Radio Press Gallery, $3,000; second assistant superintendent, Radio Press Gallery, $2,940 in lieu of assistant in Radio Press Gallery, $2,850; third assistant superintendent, Radio Press Gallery, $2,580 in lieu of assistant in Radio Press Gallery, $2,500; superintendent, Periodical Press Gallery, $4,200 in lieu of $4,100; superintendent, service department, $4,800 in lieu of $4,380; assistant superintendent, service department, $3,960 in lieu of $2,760; foreman of duplicating department, $2,880 in lieu of $2,520; chief machine operator, $2,760 in lieu of $2,700; foreman, repairmen, $2,760 in lieu of clerk, $2,460; three offset press operators at $2,340 each in lieu of $2,220 each; three mimeograph operators at $1,920 each in lieu of two mimeograph operators at $1,800 each; clerk-typist, $1,920, photostat operator, $2,400, photostat helper, $1,920, four addressograph operators at $2,160 each, machine operator, $1,860, file clerk, $1,920, two messengers at $1,740 each, and a technical clerk, $2,160 in lieu of twelve machine operators at $1,740 each; chief clerk, Deputy Sergeant at Arms, $3,240; assistant chief clerk, Deputy Sergeant at Arms, $2,220; two mail carriers at $2,100 each; secretary to superintendent, Service Department, $2,760; supervisor, addressograph section, $2,700; two offset press operators at $2,160 each; assistant chief machine operator, $2,520; four messengers at $1,740 each; supervisor, supply section, $2,700; repairman, $2,580; repairman, $2,520; file clerk, $1,980; five warehousemen at $1,800 each; stockroom clerk, $2,460; special officer, $2,520; press liaison, $2,880; assistant at the press door, $2,160; messenger at card door, $3,060; messenger, $2,160; wagonmaster, $2,580 in lieu of $2,520; assistant wagonmaster, $2,160 in lieu of $2,100, and the positions, wagonmaster and assistant wagonmaster, are hereby transferred to the jurisdiction of the Service Department; postmaster, $5,580 in lieu of $5,000; procurement officer, auditor, and Deputy Sergeant at Arms, $7,320 in lieu of $6,480; foreman of warehouse, Service Department, $2,640 in lieu of $2,580; three clerks at $2,220 each in lieu of $2,160 each; file clerk, $2,040 in lieu of $1,980; clerk in Service Department, $2,040 in lieu of $1,980; and twenty-four pages at $1,800 each in lieu of twenty-eight pages at $1,800 each; clerk, $4,440 in lieu of $4,260.

OFFICE OF THE MAJORITY AND MINORITY WHIPS

The committee has provided the sum of $16,405 for 2 clerical assistants, 1 for the majority whip and 1 for the minority whip at a basic compensation of $4,440 each. This amount also includes the 7½-percent increased pay.

CONFERENCE COMMITTEES

The committee recommends an appropriation of $40,000 for each of the conference committees, which amount includes the 7½-percent pay increase.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

The sum of $95,000 is made available for each of the policy committees, which amount includes the 7½ per centum pay increase.

JOINT COMMITTEE ON PRINTING

The committee proposes an appropriation of $57,595 for the Joint Committee on Printing of which $49,585 is made available for salaries. This latter amount includes the 7½-percent pay increase.

CONTINGENT EXPENSES OF THE SENATE

AIRMAIL AND SPECIAL-DELIVERY STAMPS

The following provision relative to airmail and special-delivery stamps for Senators has been added to the bill:

Airmail and special-delivery stamps: For airmail and special-delivery stamps for Senators and the President of the Senate, as authorized by law, $19,400, and the maximum allowance per capita of $200 is increased to $300 for the fiscal year 1956 and thereafter.

STATIONERY

It is recommended by the committee that the stationery allowance for Senators be increased from $1,200 to $1,800 per annum. To accomplish this the following paragraph has been added to the bill:

Stationery: For stationery for Senators and for the President of the Senate, including $10,000 for stationery for committees and officers of the Senate, $184,600: Provided, That commencing with the fiscal year 1956 and thereafter the allowance for stationery for each Senator and for the President of the Senate shall be at the rate of $1,800 per annum.

GENERAL PROVISIONS

The committee recommends the inclusion of the following paragraph dealing with per diem and subsistence expenses:

No part of the foregoing appropriations made under the heading "Contingent expenses of the Senate" may be expended for per diem and subsistence expenses (as defined in the Travel Expense Act of 1949, as amended) at rates in excess of $12 per day; except that (1) higher rates may be established by the Committee on Rules and Administration for travel beyond the limits of the continental United States, and (2) in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate, reimbursement for such expenses may be made on an actual expense basis at not to exceed $25 per day in the case of travel within the continental limits of the United States.

The following paragraph relating to stenographic assistance of committees is proposed:

Compensation for stenographic assistance of committees paid out of the foregoing items under "Contingent expenses of the Senate" shall be computed at such rates and in accordance with such regulations as may be prescribed by the Committee on Rules and Administration, notwithstanding, and without regard to, any other provision of law.

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The committee has added to the bill the following paragraph making provision for not to exceed two employees in each Senator's office to be reimbursed for one round trip each fiscal year between Washington, D. C., and the Senator's residence in his home State:

The contingent fund of the Senate is hereby made available for reimbursement for mileage, at the rate of 10 cents per mile, for one round trip in each fiscal year by the nearest route usually traveled between Washington, D. C., and a Senator's residence in his own State not to exceed two employees in each Senator's office, such reimbursement to be made on vouchers approved by the Senator and containing a certification by him that such travel was performed in line of official duty.

COMMITTEE STAFFS

The committee recommends the inclusion in the bill of a provision to authorize the basic compensation of 1 employee of each standing committee, each select committee, and each joint committee whose employees are paid from the contingent fund of the Senate, to be set at not to exceed $8,820 per annum; and the basic compensation of 1 additional employee of each such committee to be set at $8,460 per annum. These basic rates provide for gross compensation of $14,800 and $14,301.34, respectively. No change is recommended in the basic compensation of $8,000 established in the Legislative Reorganization Act of 1946 with regard to members of clerical and professional staffs whose rates of compensation are established by that act. The basic rate of $8,000 per annum provides a gross compensation of $13,617.69. The following provision is recommended by the committee to accomplish this purpose:

The basic compensation of any employee of any joint committee of the Senate and House of Representatives whose basic compensation is paid from the contingent fund of the Senate, of any select committee of the Senate (including the conference majority and conference minority of the Senate), or of any subcommittee of a standing or select committee of the Senate, shall not exceed $8,000 per annum. Notwithstanding the foregoing provisions of this paragraph and the provisions of section 202 (e) of the Legislative Reorganization Act of 1946, as amended (2 U. S. C. 72a (e)), the joint resolution entitled "Joint resolution providing for a more effective staff organization for standing committees of the Senate", approved February 19, 1947, as amended (2 U. S. C. 72a–1), and the paragraph under the heading "Senate Policy Committee" in the First Supplemental Appropriation Act, 1947, the basic compensation of one employee of each standing or select committee of the Senate (including the majority and minority policy committees and the majority conference of the Senate and the minority conference of the Senate), and each joint committee of the two Houses, the expenses of which are paid from the contingent fund of the Senate, whose basic compensation may be fixed under such provisions at a rate of $8,000 per annum, may be fixed at any rate not in excess of $8,820 per annum, and the basic compensation of one employee of each such committee may be fixed at any rate not in excess of $8,460 per annum. For the purpose of this paragraph, an employee of a subcommittee shall be considered to be an employee of the full committee.

No officer or employee, whose compensation is disbursed by the Secretary of the Senate shall be paid basic compensation at a rate in excess of $8,820 per annum, or gross compensation at a rate in excess of $14,800 per annum, unless otherwise expressely authorized by this Act.

It is recommended by the committee that the following paragraph be included in the bill:

Notwithstanding any provision of law, service heretofore or hereafter performed as an employee of the Republican Senatorial Campaign Committee or the Democratic Senatorial Campaign Committee shall be considered for the purpose of the Civil Service Retirement Act of May 29, 1930, as amended, to be service as an employee in the legislative branch of the Government within the classes of officers and employees made eligible for the benefits of such Act by the Act of July 13, 1937.

LEGISLATIVE COUNSEL OF THE SENATE

The committee recommends an appropriation of $153,000 for the Office of the Legislative Counsel of the Senate and provides that effective August 1, the gross annual compensation of the Legislative Counsel of the Senate shall be $14,800 per annum; and the basic compensation of assistant counsels in the Office of the Legislative Counsel of the Senate may be fixed at any rate not in excess of $8,400 per annum, except that the basic compensation of 1 such assistant counsel may be fixed at any rate not in excess of $8,820 per annum, and the basic compensation of 2 other such assistant counsels may be fixed at any rate not in excess of $8,460 per annum. The amount proposed includes the 7½ percent for pay increases.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

A language provision has been inserted in the bill fixing the salary of the Architect of the Capitol at $17,500 per annum; the Assistant Architect of the Capitol, $14,800 per annum; and Second Assistant Architect of the Capitol, $14,300 per annum. The amount included in the House bill under this head, $179,000, has been increased by $7,200 to finance these positions.

CONTINGENT FUND

The Architect of the Capitol requested a $50,000 contingent fund to meet unforeseen expenses which arise every year and necessitate, under existing conditions, a supplemental appropriation. The House recommended an appropriation for this purpose of $25,000. The committee recommends that the full amount be allowed and has also included language in the bill authorizing the transfer of the $50,000 to any of the other appropriations under the control of the Architect.

CAPITOL BUILDINGS

The committee recommends an appropriation of $1,160,100, an increase of $335,100 in the House bill. The additional funds will finance classification and preservation of drawings and other records, air conditioning of 9 rooms on the north terrace of the Senate wing of the Capitol, 2 additional elevators in the Senate wing of the Capitol, and other necessary miscellaneous functions. A language provision has been included in the bill limiting the amount which may be expended for repairs to the large painting "The Battle of Lake Erie" to $22,500 and providing that the money be expended under the direction and approval of the chairman of the Senate Committee on Appropriations. This painting, which is located on the wall of the east stairway of the Senate wing of the Capitol, was seriously damaged in March of this year. The damage was apparently caused by some heavy object having been thrown from the Senate gallery floor through the painting.

EXTENSION OF THE CAPITOL

The committee concurs in the action of the House in providing an appropriation of $5 million for extension of the Capitol. The com-

UNIVERSITY OF MICHIGAN LIBRARIES

mittee has included language in the bill providing that the amount authorized to be appropriated for this extension shall not exceed an additional $5 million.

SUBWAY TRANSPORTATION

The following customary language has been included in the bill:

Subway transportation, Capitol and Senate Office Buildings: For maintenance, repairs, and rebuilding of the subway transportation system connecting the Senate Office Building with the Capitol, including personal and other services, $3,500.

SENATE OFFICE BUILDING

The following customary language with respect to the Senate Office Building has been included in the bill:

Senate Office Building: For maintenance, miscellaneous items and supplies, including furniture, furnishings, and equipment, and for labor and material incident thereto, and repairs thereof; for purchase of waterproof wearing apparel and for personal and other services; including five female attendants in charge of ladies' retiring rooms at $1,800 each, for the care and operation of the Senate Office Building; to be expended under the control and supervision of the Architect of the Capitol in all, $960,690.

Sufficient funds have been included under this head to purchase an ambulance stretcher, folding wheelchair, and two beds with necessary blankets and pillows for the emergency room in the Senate Office Building.

ADDITIONAL OFFICE BUILDING FOR UNITED STATES SENATE

The committee recommends an additional appropriation of $8,500,000 to continue construction of the additional office building for the Senate. A contract for construction and equipment is expected to be awarded during August 1955. The following language has been inserted in the bill:

ADDITIONAL OFFICE BUILDING FOR THE UNITED STATES SENATE

Construction and equipment of additional Senate Office Building: To enable the Architect of the Capitol, under the direction of the Senate Office Building Commission, to continue to provide for the construction and equipment of a fireproof office building for the use of the United States Senate, in accordance with the provisions of the Second Deficiency Appropriation Act, 1948 (62 Stat. 1029), $8,500,000: Provided, That no part of the funds herein appropriated shall be obligated or expended for construction of the rear center wing of said building, from the ground floor up, provided for under the building plans heretofore approved by such Commission.

PRINTING AND BINDING—ARCHITECT OF THE CAPITOL

The limitation contained in the House bill of not to exceed $5,000 for printing and binding for the Architect of the Capitol has been deleted by the committee. It was found recently that one printing job on a large construction project was estimated to cost $5,900.

LIBRARY BUILDINGS AND GROUNDS

The committee recommends an appropriation of $865,000 an increase of $265,000 in the House bill. With these additional funds, it is intended to increase the capacity of and make alterations to the

air-conditioning system in the Library Annex, necessary to integrate that system with the central refrigeration system at the Capitol Power Plant.

Library of Congress

The committee considered budget estimates totaling $9,866,098 for the Library of Congress. The House allowed $9,660,000, and the committee recommends an appropriation of $9,831,892, an increase of $171,892 over the amount allowed by the House.

The increase of $171,892 recommended by the Senate is for the following appropriations:

Salaries and expenses	$30,895
Copyright Office, salaries and expenses	36,120
Legislative Reference Service	59,877
Distribution of catalog cards	25,000
Increase of the Library	20,000
Total increase recommended	171,892

The amount recommended by the committee is an increase of $432,256 over the sum of $9,399,636 appropriated for fiscal year 1955.

Government Printing Office

It is the view of the committee that it is desirable for the Public Printer, and members of his staff, to attend various meetings and conferences concerning the activities of the Government Printing Office. To simplify the procedure for authorizing the use of funds for the attendance of such meetings and conferences, the committee recommends the inclusion of the following provision in the bill:

REVOLVING FUND

The paragraph in the Legislative Appropriation Act, 1954 (67 Stat. 330), establishing the Government Printing Office Revolving Fund is hereby amended by striking out the words "expenses of attendance at meetings, when authorized by the Joint Committee on Printing" and inserting in lieu thereof the words "expenses of attendance at meetings not to exceed $3,000 in any fiscal year".

Increases and Limitations

The changes recommended by the committee in the amounts of the House bill are as follows:

Senate:

Salaries and expense allowance of Senators and the Vice President:	
Compensation of Senators	$2,166,240
Mileage of the President of the Senate and of Senators	51,000
Expense allowance for the majority and minority leaders of the Senate	4,000
Compensation of the Vice President of the United States	35,070
Expense allowance of the Vice President	10,000
Total, salaries and expense allowance of Senators and the Vice President	2,266,310

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Senate—Continued

Salaries, officers and employees:	
Vice President's Office: Clerical assistance	$64,745
Chaplain	5,000
Office of the Secretary	521,345
Joint recording facility	47,430
Committee employees	1,767,045
Conference committees:	
Majority, clerical salaries	40,000
Minority, clerical salaries	40,000
Administrative and clerical assistance to Senators	6,247,555
Office of Sergeant at Arms and Doorkeeper, salaries	1,436,230
Offices of the secretary for the majority and the secretary for the minority, salaries	87,100
Offices of the majority and minority whips	16,405
Total, salaries of officers and employees	10,272,855
Contingent expenses of the Senate:	
Legislative reorganization	100,000
Senate policy committees	190,000
Joint Committee on the Economic Report	124,575
Joint Committee on Atomic Energy	258,060
Joint Committee on Printing	57,595
Vice President's automobile	8,460
Automobile for the President pro tempore	8,460
Automobiles for majority and minority leaders	16,920
Reporting Senate proceedings	146,210
Services in cleaning, repairing, and varnishing furniture	3,190
Materials for furniture, etc	19,000
Inquiries and investigations	1,224,120
Folding documents	27,000
Materials for folding	1,500
Fuel, etc	2,000
Senate restaurants	55,000
Motor vehicles	9,560
Miscellaneous items	1,290,680
Packing boxes	4,000
Postage stamps	1,975
Airmail and special-delivery stamps	29,100
Stationery	184,600
Communications	14,550
Total, contingent expense	3,776,555
Total, Senate	16,315,720
Capitol Police:	
Capitol Police Board	1,250
The committee recommends an increase of $625 for each for the 2 lieutenants detailed to the Capitol.	
Joint Committee on Reduction of Nonessential Federal Expenditures	22,500

Office of the Legislative Counsel:	
For salaries of the Legislative Counsel	$16,000
Statement of Appropriations	2,000
Architect of the Capitol:	
Salaries	7,200
Contingent expenses	25,000
Capitol Buildings and Grounds	335,100
Subway transportation	3,500
Senate Office Building	960,690
Additional office building for the United States Senate	8,500,000
Library Buildings and Grounds	265,000
Total, Architect of the Capitol	10,096,490
Library of Congress:	
Salaries and expenses	30,895
Copyright Office	36,120
Legislative reference	59,877
Distribution of catalog cards	25,000
Increase of the Library	20,000
Total, Library of Congress	171,892
Total increase	26,625,852
Amount of bill as reported to the Senate	92,924,027

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COMPARATIVE STATEMENT OF APPROPRIATIONS FOR 1955, AND ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1956

LEGISLATIVE BRANCH

Item	Appropriations, 1955	Estimates, 1956	Recommended in House bill for 1955	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with—		
					Appropriations, 1955	Estimates, 1956	House bill
SENATE							
Senators:							
Compensation of Senators	$1,520,001	$2,166,240		$2,166,240	+$646,239		+$2,166,240
Expense allowance of Senators	240,000				−240,000		
Mileage of the President of the Senate and of Senators	51,000	51,000		51,000			+51,000
Expense allowance for majority and minority leaders				4,000	+4,000	+$4,000	+4,000
Compensation of the Vice President	31,667	35,070		35,070	+3,403		+35,070
Expense allowance of the Vice President	10,000	10,000		10,000			+10,000
Beneficiaries of deceased Senators	62,500				−62,500		
Total Senators	1,915,168	2,262,310		2,266,310	+351,142	+4,000	+2,266,310
Salaries of officers and employees:							
Office of the Vice President	55,410	55,410		64,745	+9,335	+9,335	+64,745
Chaplain	2,946	2,946		5,000	+2,054	+2,054	+5,000
Office of the Secretary of the Senate	417,560	437,105		521,345	+103,785	+84,240	+521,345
Joint recording facility	46,935	46,935		47,430	+495	+495	+47,430
Committee employees	1,767,045	1,767,045		1,767,045			+1,767,045
Conference committees:							
Majority, clerical salaries	33,310	33,310		40,000	+6,690	+6,690	+40,000
Minority, clerical salaries	33,310	33,310		40,000	+6,690	+6,690	+40,000

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Comparative statement of appropriations for 1955, and estimates and amounts recommended in the bill for 1956—Con.

LEGISLATIVE BRANCH—Continued

Item	Appropriations, 1955	Estimates, 1956	Recommended in House bill for 1955	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with—		
					Appropriations, 1955	Estimates, 1956	House bill
SENATE—continued							
Salaries of officers and employees—Continued							
Administrative and clerical assistants to Senators	$6,207,625	$6,222,120		$6,247,555	+$39,930	+$25,435	+$6,247,555
Office of Sergeant at Arms and Doorkeeper, salaries	1,298,940	1,300,600		1,436,230	+137,290	+135,630	+1,436,230
Office of secretaries for the majority and minority, salaries	63,570	63,690		87,100	+23,530	+23,410	+87,100
Office of the majority and minority whips	9,140	9,140		16,405	+7,265	+7,265	+16,405
Total salaries of officers and employees	9,935,791	9,971,611		10,272,855	+337,064	+301,244	+10,272,855
Contingent expenses:							
Legislative reorganization	125,000	125,000		100,000	−25,000	−25,000	+100,000
Senate policy committees	149,780	149,870		190,000	+40,220	+40,130	+190,000
Joint Committee on the Economic Report	124,575	138,275		124,575		−13,700	+124,575
Joint Committee on Atomic Energy	188,060	258,060		258,060	+70,000		+258,060
Joint Committee on Printing	47,700	48,500		57,595	+9,895	+9,095	+57,595
Vice President's automobile	5,835	5,855		8,460	+2,625	+2,605	+8,460
Automobile for the President pro tempore	5,835	5,855		8,460	+2,625	+2,605	+8,460
Automobiles for majority and minority leaders	11,670	11,710		16,920	+5,250	+5,210	+16,920
Reporting Senate proceedings	139,785	140,545		146,210	+6,425	+5,665	+146,210
Furniture:							
For services in cleaning, etc	3,190	3,190		3,190			+3,190
Materials, repairs, etc	24,000	19,000		19,000	−5,000		+19,000

Inquiries and investigations	2,019,120	1,224,120		1,224,120	−795,000		+1,224,120
Folding documents	27,000	27,000		27,000			+27,000
Materials for folding	1,500	1,500		1,500			+1,500
Fuel, etc	2,000	2,000		2,000			+2,000
Senate restaurants	55,000	55,000		55,000			+55,000
Motor vehicles	9,560	9,560		9,560			+9,560
Miscellaneous items	1,033,037	981,087		1,290,680	+257,643	+309,593	+1,290,680
Packing boxes	3,500	4,000		4,000	+500		+4,000
Postage stamps	940	975		1,975	+1,035	+1,000	+1,975
Airmail and special-delivery stamps	19,400	19,400		29,100	+9,700	+9,700	+29,100
Stationery	129,950	126,400		184,600	+54,650	+58,200	+184,600
Communications	14,550	14,550		14,550			+14,550
Total, contingent expenses	4,140,987	3,371,452		3,776,555	−364,432	+405,103	+3,776,555
Total, Senate	15,991,946	15,605,373		16,315,720	+323,744	+710,347	+16,315,720
HOUSE OF REPRESENTATIVES							
Members and Delegates:							
Salaries	[1] 6,960,500	[2] 9,896,000	$9,896,000	9,896,000	+2,935,500		
Mileage and expenses	1,273,500	[2] 200,000	200,000	200,000	−1,073,500		
Total, Members and Delegates	8,234,000	10,096,000	10,096,000	10,096,000	+1,862,000		
Salaries, officers and employees:							
Speaker's office	47,285	47,285	47,285	47,285			
Parliamentarian's office	43,885	44,920	44,920	44,920	+1,035		
Office of the Chaplain	4,200	4,200	4,200	4,200			
Clerk's office	737,530	[3] 772,865	767,500	767,500	+29,970	−5,365	
Committee employees	1,820,000	1,950,510	1,950,510	1,950,510	+130,510		
Sergeant at Arms' office	384,045	384,045	384,045	384,045			

See footnotes at end of table, p. 17.

UNIVERSITY OF MICHIGAN LIBRARIES

Comparative statement of appropriations for 1955, and estimates and amounts recommended in the bill for 1956—Con.

LEGISLATIVE BRANCH—Continued

Item	Appropriations, 1955	Estimates, 1956	Recommended in House bill for 1955	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with—		
					Appropriations, 1955	Estimates, 1956	House bill
HOUSE OF REPRESENTATIVES—continued							
Salaries, officers and employees—Continued							
Doorkeeper's office	$657,915	[2] $704,275	$704,275	$704,275	+$46,360		
Special and minority employees (several items)	191,485	[2] 194,765	194,765	194,765	+3,280		
Postmaster's office	189,880	[2] 198,775	198,775	198,775	+8,895		
Official reporters	124,435	124,435	124,435	124,435			
Committee reporters	133,855	133,855	133,855	133,855			
Studies and investigations, Committee on Appropriations	450,000	500,000	500,000	500,000	+50,000		
Total, salaries, officers and employees	4,784,515	5,059,930	5,054,565	5,054,565	+270,050	−$5,365	
Members' clerk hire	11,500,000	11,600,000	11,500,000	11,500,000		−100,000	
Contingent expenses:							
Furniture	220,500	225,500	245,000	245,000	+24,500	+19,500	
Miscellaneous items	898,800	916,300	865,000	865,000	−33,800	−51,300	
Reporting hearings	125,000	125,000	125,000	125,000			
Special and select committees	1,250,000	1,250,000	1,250,000	1,250,000			
Joint Committee on Internal Revenue Taxation	200,000	200,000	200,000	200,000			
Joint Committee on Immigration and Nationality Policy	20,000	30,000	20,000	20,000		−10,000	
Coordinator of Information, salaries and expenses	[1] 75,750	82,825	82,825	82,825	+7,075		
Telegraph and telephone	800,000	900,000	800,000	800,000		−100,000	
Stationery (revolving fund)	525,600	525,600	525,600	525,600			

Attending physician's office	8,985	8,985	8,985	8,985			
Postage stamps	94,050	92,760	92,760	92,760	−1,290		
Folding documents	[1] 135,000	125,000	125,000	125,000	−10,000		
Revision of laws	13,700	13,700	13,700	13,700			
Speaker's automobile	7,200	7,200	7,200	7,200			
Majority Leader's automobile	[1] 11,235	5,835	5,835	5,835	−5,400		
Minority Leader's automobile	5,835	5,835	5,835	5,835			
New edition, United States Code		[2] 100,000	100,000	100,000	+100,000		
Total, contingent expenses	4,391,655	4,614,540	4,472,740	4,472,740	+81,085	−141,800	
Total, House of Representatives	28,910,170	31,370,470	31,123,305	31,123,305	+2,213,135	−247,165	
CAPITOL POLICE							
General expenses	17,900	17,900	17,900	17,900			
Capitol Police Board	[1] 61,317	[2] 75,690	75,690	76,940	+15,623	+1,250	+$1,250
Total, Capitol Police	79,217	93,590	93,590	94,840	+15,623	+1,250	+1,250
LEGISLATIVE COUNSEL							
Salaries and expenses	259,000	[2] 274,000	274,000	290,000	+31,000	+16,000	+16,000
JOINT COMMITTEE ON REDUCTION OF NONESSENTIAL FEDERAL EXPENDITURES							
Salaries and expenses	20,000			22,500	+2,500	+22,500	+22,500
EDUCATION OF HOUSE AND SENATE PAGES							
Expenses	47,280	47,280	47,280	47,280			
MISCELLANEOUS							
Penalty mail costs	1,169,700	1,978,000	1,978,000	1,978,000	+808,300		
Statement of appropriations	6,000	6,000	6,000	8,000	+2,000	+2,000	+2,000
Total, miscellaneous	1,175,700	1,984,000	1,984,000	1,986,000	+810,300	+2,000	+2,000
ARCHITECT OF THE CAPITOL							
Salaries	138,000	[2] 179,000	179,000	186,200	+48,200	+7,200	+7,200
Contingent expenses		[2] 50,000	25,000	50,000	+50,000		+25,000
Capitol buildings	[1] 646,000	[2] 875,100	825,000	1,160,100	+514,100	+285,000	+335,100

See footnotes at end of table, p. 17.

UNIVERSITY OF MICHIGAN LIBRARIES

Comparative statement of appropriations for 1955, and estimates and amounts recommended in the bill for 1956—Con.

LEGISLATIVE BRANCH—Continued

Item	Appropriations, 1955	Estimates, 1956	Recommended in House bill for 1955	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with—		
					Appropriations, 1955	Estimates, 1956	House bill
ARCHITECT OF THE CAPITOL—continued							
Extension of Capitol	----------	[3] $5,000,000	$5,000,000	$5,000,000	+$5,000,000	----------	----------
Capitol grounds	$342,500	280,000	280,000	280,000	−62,500	----------	----------
Reconstruction, repair, alteration, and improvement, Capitol grounds	[1] 611,000	----------	----------	----------	−611,000	----------	----------
Subway transportation	3,500	3,500	----------	3,500	----------	----------	+$3,500
Senate Office Building	853,509	960,400	----------	960,690	+107,190	+$290	+960,690
Additional Senate Office Building	6,000,000	8,500,000	----------	8,500,000	+2,500,000	----------	+8,500,000
Legislative garage	34,200	38,500	38,500	38,500	+4,300	----------	----------
House Office Buildings	984,200	[2] 1,150,200	1,125,000	1,125,000	+140,800	−25,200	----------
Acquisition of property, construction and equipment, additional House Office Building	[1] 5,000,000	----------	----------	----------	−5,000,000	----------	----------
Capitol Power Plant (operation)	1,237,000	1,279,500	1,279,500	1,279,500	+42,500	----------	----------
Capitol Power Plant, changes and improvements	1,500,000	1,800,000	1,800,000	1,800,000	+300,000	----------	----------
Library buildings and grounds:							
Structural and mechanical care	400,000	[2] 880,000	600,000	865,000	+465,000	−15,000	+265,000
Furniture and furnishings	50,000	68,000	68,000	68,000	+18,000	----------	----------
Total, Architect of the Capitol	17,799,900	21,064,200	11,220,000	21,316,490	+3,516,590	+252,290	+10,096,490
BOTANIC GARDEN							
Salaries and expenses	223,100	246,000	246,000	246,000	+22,900	----------	----------

LIBRARY OF CONGRESS							
Salaries and expenses	4,717,636	[4] 4,891,396	4,850,000	4,880,895	+163,259	−10,501	+30,895
Copyright Office, salaries and expenses	1,100,000	[4] 1,195,284	1,140,000	1,176,120	+76,120	−19,164	+36,120
Legislative Reference Service, salaries and expenses	875,000	[4] 984,877	925,000	984,877	+109,877	----------	+59,877
Catalog cards, distribution of	1,332,000	[4] 1,379,541	1,350,000	1,375,000	+43,000	−4,541	+25,000
Increase of the Library:							
General	260,000	[4] 300,000	280,000	300,000	+40,000	----------	+20,000
Law library	90,000	90,000	90,000	90,000	----------	----------	----------
Books for Supreme Court	25,000	25,000	25,000	25,000	----------	----------	----------
Books for the blind	1,000,000	1,000,000	1,000,000	1,000,000	----------	----------	----------
Total, Library of Congress	9,399,636	9,866,098	9,660,000	9,831,892	+432,256	−34,206	+171,892
GOVERNMENT PRINTING OFFICE							
Printing and binding for Congress	[1] 9,200,000	9,200,000	8,800,000	8,800,000	−400,000	−400,000	----------
Superintendent of Documents salaries and expenses	2,825,000	2,890,400	2,850,000	2,850,000	+25,000	−40,400	----------
Total, Government Printing Office	12,025,000	12,090,400	11,650,000	11,650,000	−375,000	−440,400	----------
Grand total, Legislative Branch	85,930,949	92,641,411	66,298,175	92,924,027	+6,993,078	+282,616	+26,625,852

[1] Includes amounts contained in 2d Supplemental Appropriation Act, 1955.
[2] Includes amounts contained in H. Doc. 163.
[3] Contained in H. Doc. 153.
[4] Includes amounts contained in H. Doc. 123.

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UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 1198

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1182

AMENDING SECTION 602 OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949 WITH RESPECT TO THE UTILIZATION AND DISPOSAL OF EXCESS AND SURPLUS PROPERTY UNDER THE CONTROL OF EXECUTIVE AGENCIES

JULY 28, 1955.—Ordered to be printed

Mr. KENNEDY, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 2591]

The Committee on Government Operations, to whom was referred the bill (S. 2591) to amend section 602 of the Federal Property and Administrative Services Act of 1949 with respect to the utilization and disposal of excess and surplus property under the control of executive agencies, having considered the same, report favorably thereon, with amendments, and recommend that the bill, as amended, do pass.

COMMITTEE AMENDMENTS

The amendments approved by the committee are as follows:

(1) Page 2, line 14, strike the word "inplace." S. 2591, as originally drafted may have been construed to restrict TVA's disposal of power facilities to inplace or stationary facilities. It is the committee's conclusion that TVA should retain disposal authority over movable power equipment facilities, such as small generators, etc., where disposal is in connection with a specific statutory disposal program.

(2) Page 2, line 16, strike the words "to power distributors." It is the judgment of the committee that the restriction "to power distributors" would too severely limit TVA's disposal authority, since the Authority may have occasion to transfer equipment, facilities, or interests in realty to other than "power distributors" in accordance with statutory programs undertaken by it, for example, services to industrial firms, etc.

(3) Page 3, line 11, delete the following language, beginning with the word "Each" through line 16, ending with the word "therefor."

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The two provisions eliminated by the amendment are not necessary to the fullment of the objectives of S. 2591. It is not necessary to require publication of an Executive order in the Federal Register 30 days prior to the issuance thereof because before an Executive order is issued the viewpoint and suggestions of all affected executive agencies concerned are obtained. Except in emergencies, agencies affected are made fully aware of a forthcoming Executive order on the average of 2 to 4 weeks before issuance of the order, the staff of the Bureau of the Budget advises.

Annual reports to the Congress upon Executive orders issued under the authority granted the President by S. 2591 are not considered essential to the objectives of the bill since all Executive orders are published in the Federal Register and are available to the Congress, committees of the Congress, or Members of the Congress at any time.

GENERAL PURPOSE

The primary purpose of S. 2591 is to amend the Federal Property and Administrative Services Act of 1949, as amended (Public Law 152, 81st Cong., 63 Stat. 377) so as to vest in the Administrator of the General Services Administration exclusive authority with respect to the utilization and disposal of excess and surplus property, real and personal, which is under the control of any executive agency, except as hereafter noted.

The bill would do this by removing present statutory exemptions of certain executive departments and agencies from the General Services Administrator's authority as set forth in subsection 602 (d), paragraphs (1) through (18) of the Federal Property and Administrative Services Act of 1949, as amended. Specifically, the bill would make certain exemptions in subsection 602 (d) of Public Law 152, the Federal Property and Administrative Services Act of 1949 as amended, inapplicable to section 202 (property utilization); section 203 (disposal of surplus property); and section 204 (procedures for transfer or disposition of property) of the act.

Although eliminating statutory exemptions (with the exceptions hereafter noted) the bill would give the President the power to make such specific exemptions from the exercise by the Administrator of General Services of the authority vested in him, as the President deems necessary in the public interest.

In summary, the bill eliminates statutory exemptions, with the exceptions hereafter noted, but empowers the President to continue existing exemptions, modify those now in existence, or impose new ones by Executive order.

JUSTI ICATION FOR VESTING AUTHORITY IN THE GENERAL SERVICES ADMINISTRATION

The Federal Property and Administrative Services Act of 1949 was enacted and the General Services Administration was created, among other reasons, to center, as far as feasible, in one administration, authority governing the utilization of property, the disposal of surplus property, and the transfer or disposition of property between Government agencies.

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However, certain executive departments and agencies, and officers and functions thereof, such as the Atomic Energy Commission, the Tennessee Valley Authority, the Department of Agriculture, the Central Intelligence Agency, and others, were exempted completely or partially from sections 202, 203, and 204 of the act which pertain to General Services Administration's authority governing utilization and disposal of property.

Agencies were granted exemptions by the Congress from these provisions of Public Law 152 for several reasons, among them: (A) The agencies convinced Congress they could better dispose of their own surplus property. (B) The Congress believed that the national security would be better served if certain agencies retained authority to dispose of certain types of property. (C) Certain types of property (for example, contaminated materials) could best be disposed of by the owning agencies.

After 5 years of experience under the provisions of subsection 602 (d) authorities upon disposal of surplus Government property, such as the General Services Administration, the Commission on Organization of the Executive Branch of the Government (the Hoover Commission, whose recommendations appear elsewhere in this report) and other organizations which have studied the matter, have come to the conclusion that the best interests of the Government would be served if the majority of the statutory exemptions were removed, and the General Services Administrator given enlarged authority governing utilization and disposal programs.

The Hoover Commission based its recommendations on the finding that the opportunity for substantial dollar savings is not presently being met by reason of the present exemptions. Should the exemptions be removed, the Commission believes that more excess property would be reported to General Services Administration for screening within the Federal Government, resulting in increased utilization. Further, the Commission declared General Services Administration control and supervision would make for more uniform, efficient, and economical surplus disposals. The testimony offered the committee fully supports the Hoover Commission position in this important area.

STATUTORY EXEMPTIONS CONTINUED

The Committee on Government Operations, in recommending approval of S. 2591, is fully aware that the statutory exemptions of certain departments and agencies, or upon specific functional disposal programs, from overall authority of the General Services Administrator should be continued, and that the authority to utilize and dispose of certain types of Government property should remain unmolested in those respective departments, agencies, or officers.

In examining the problems of utilizing and disposing of excess and surplus property, the committee considered carefully the existing statutory exemptions and concluded that a fundamental difference existed between (1) disposing of surplus property simply for the purpose of, in effect, getting rid of it and realizing the greatest possible return of the Government's investment; and (2) disposing of property where the disposal itself constitutes an integral part of a proper governmental program established by law. Examples of the latter group are the disposal of agricultural surplus products in the price

support, school lunch, and other programs, and the disposal by the Tennessee Valley Authority of lands surrounding its reservoirs, in accordance with the Authority's recreational, agricultural, flood control, and navigation programs.

The committee concluded, therefore, that where disposal constitutes a program operation, control of the disposal should be vested in the department or agency bearing the responsibility for the ultimate success of the total program. Thus, the committee recommends a general exemption from the control of the General Services Administration in the field where disposal is a part of or in furtherance of agency program activities, providing in subparagraph (A) that nothing in S. 2591 shall impair or affect any authority of—

(A) any executive agency to dispose of property under its control when such disposal is made as specifically authorized by law in a particular manner, to a particular class or classes of persons, or for particular purposes, as part of or in furtherance of program activities of such agency, including, but not limited to, disposal by the Department of Agriculture of agricultural commodities acquired under price support or other agricultural assistance programs, and disposal by the Tennessee Valley Authority of reservoir lands, or power equipment facilities with appurtenant rights-of-way, and of other property similarly disposed of by such Authority in connection with its program activities, but the agency carrying out such program shall, to the maximum extent practicable consistent with the fulfillment of the purposes of the program and the effective and efficient conduct of its business, coordinate its operations with the requirements of this Act and the policies and regulations prescribed pursuant thereto;

The continued exemption of the Joint Committee on Printing was also specifically provided for in subparagraph (B) in the following language:

(B) the Joint Committee on Printing under the Act entitled "An Act providing for the public printing and binding and distribution of public documents", approved January 12, 1895 (58 Stat. 601), as amended, or any other Act.

In addition, it is not the intention of the committee that S. 2591 shall affect the authority granted the Administrator of the Veterans' Affairs by the Servicemen's Readjustment Act, as amended by the act of December 28, 1945 (38 U. S. C. 694j), which specifically authorizes the Administrator of Veterans' Affairs to sell, operate, maintain, lease, or otherwise use property acquired or held pursuant to the Veterans' Administration loan assistance program under title III of the above act.

It is the judgment of the committee that disposal of property described by the above sections can best be accomplished with the greatest efficiency and the greatest economy by the respective agencies, particularly as respects disposal programs which perform functions authorized by law.

HOOVER COMMISSION RECOMMENDATIONS

Both the Commission on Organization of the Executive Branch of the Government (in its report on use and disposal of surplus property, filed with the Congress on April 18, 1955), and the Commission's task force on the use and disposal of Federal surplus property (in its report filed with the Congress on June 22, 1955), made recommendations to the Congress concerning the vesting of authority in the General Services Administrator and the elimination of statutory exemptions from that authority. It should be noted that both reports were in substantial agreement on the matter and both were unanimous reports.

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As to disposal of personal property, the Hoover Commission, in its report on surplus property (recommendation No. 4, p. 21) stated:

The statutory basis for efficient utilization of excess property is the Federal Property and Administrative Services Act of 1949, as amended (Public Law 152, 81st Cong.). By this act the Administrator of General Services is responsible for prescribing policies and methods to promote maximum utilization of excess property by executive agencies.

Various civilian agencies are entirely or partially exempted by law from reporting their excess property for screening or from other phases of property management. These include the Department of Agriculture, the Housing and Home Finance Agency, the Tennessee Valley Authority, the Atomic Energy Commission, the Central Intelligence Agency, and the Federal Maritime Administration. Because of such exemptions opportunities are lost for redistribution and utilization of excesses.

Public interest demands that with the exception of certain property classified for security reasons, and unless the economy of operations requires otherwise, exemptions from the responsibility to report excess property for screening by defense and civilian agencies should be held to a minimum. The exemptions now granted in the Federal Property and Administrative Services Act of 1949 should be individually reviewed with a view to requiring rejustification in each case.

Recommendation No. 4

That the Federal Property and Administrative Services Act of 1949, as amended, be revised:

"(*a*) to eliminate all statutory exemptions for the executive branch of the Government from General Services Administration authority for utilization and disposal of all excess and surplus personal property.

"(*b*) to authorize the President to prescribe by Executive order specific exemptions from General Services Administration authority where fully justified in the public interest."

As to the disposal of real property, the Hoover Commission (in its report on surplus property (recommendation No. 20, pp. 79–81)) stated:

Prior to enactment of the Federal Property and Administrative Services Act of 1949, real property management responsibilities were scattered among the heads of many agencies. The 1949 legislation provided a central vehicle to achieve more economical and efficient use and more orderly disposal of real property.

However, as noted in the discussion of excess and surplus personal property, a number of agencies still are exempt from General Services Administration jurisdiction with respect to certain disposal functions. The principal agencies exempt or partially exempt for the disposal of domestic real property are:

1. Atomic Energy Commission, completely exempt but voluntarily disposes of real property through General Services Administration in certain cases.
2. Central Intelligence Agency, completely exempt.
3. Tennessee Valley Authority, with respect to the disposal of land and buildings.
4. Maritime Administration, with respect to the disposal of shipyards, ship sites, terminals, piers, docks and warehouses.
5. Housing and Home Finance Agency, with respect to disposal of residential or other real property held or acquired in connection with housing insurance and loan activities.
6. Civil Aeronautics Administration, with respect to airport property and airway property for use as such property.

As in the case of recommendation No. 4 which dealt with excess and surplus personal property, we believe that the public interest also demands that, with the exception of certain real property classified for security reasons, and unless the economy of operations requires otherwise, exemptions from General Services Administration authority in connection with the reporting and screening of excess real property should be held to a minimum. The exemptions now granted by the Federal Property and Administrative Services Act of 1949, as amended, should be reviewed individually with a view to requiring rejustification in each case.

Recommendation No. 20

That the Federal Property and Administrative Services Act of 1949, as amended, be revised:

(*a*) to eliminate all statutory exemptions for the executive branch of the Government from General Services Administration authority for utilization and disposal of all excess and surplus real property;

(*b*) to authorize the President to prescribe by Executive order specific exemptions from General Services Administration authority where fully justified in the public interest.

The Hoover Commission's task-force report, upon which the Commission's recommendations were based, made the following specific recommendations, supported by textual justification which was condensed by the Commission as set out above, relating to statutory exemptions of executive departments and agencies under Public Law 152:

Recommendation No. 3, task-force report, chapter 2, "Excess personal property" (p. 52)

3. That section 602 (d) of the Federal Property and Administrative Services Act of 1949, as amended, be revised to require those agencies therein exempted from the provisions of the act to report all excess personal property in their inventory to the Materiel Redistribution Division for screening, except for those categories of property which are classified for security reasons or which under present regulations are classified as nonreportable. * * *

It may be noted that this recommendation (repeated on p. 88 of the report) applies solely to the reporting of "excess personal property" to the Materiel Redistribution Division of the Department of Defense.[1] The following recommendations apply to disposal of surplus property, personal and real.

Recommendations Nos. 1, 2, and 3, task-force report, chapter 4, "Disposal of surplus property" (p. 164)

It is recommended:

1. That present delegations of authority for property disposal by the Administrator of General Services to Federal departments and agencies be continued. (See p. 119.)

2. That agencies now exempt under provisions of Public Law 152 be made subject to General Services Administration regulation over their disposal operations, except for properties which are classified for security reasons. (See p. 116.)

3. That the Administrator of General Services, under the authorities and responsibilities prescribed for him by Public Law 152, issue adquate regulations to govern disposal methods and establish uniform disposal procedures. (See p. 118.)

Recommendation No. 1, task-force report, chapter 5, "Real property" (p. 201)

It is recommended:

1. Exemption from the provisions of Public Law 152 should be rescinded as follows:

(*a*) Tennessee Valley Authority, Housing and Home Finance Agency, and the Government Printing Office, with respect to the disposal of real property; and

(*b*) Maritime Commission with respect to the disposal of shipyards, ship sites, terminals, piers, docks, and warehouses.[2]

HEARINGS

Hearings were held by the Subcommittee on Reorganization of the Committee on Government Operations on S. 2367, Mr. Smathers (for Mr. Kennedy), on July 13, 1955. S. 2367 has been superseded by S. 2591, which bill the committee herewith reports to the Senate.

[1] "Excess" property is property which is not needed by one agency, but may be utilized by another agency. "Surplus" property is property which has been declared excess by one agency, is not needed or cannot be utilized by another agency (i., e., the Government has no need for it) and, therefore, may be disposed of by donation (to States, etc.), by public sale, or scrapping.

[2] The textual justification for the above recommendations may be found in the Hoover Commission's Task Force Report on Use and Disposal of Federal Surplus Property filed with the Congress on June 22, 1955, as indicated by the page references following the above recommendations.

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S. 2367, proposed by the Commission on Organization of the Executive Branch of the Government, which differs from S. 2591 in many respects, provided:

That authority over disposal of surplus Government property be vested in the General Services Administrator, irrespective of the provisions of the Federal Property and Administrative Services Act of 1949, as amended (Public Law 152), and irrespective of all other provisions of law, 60 days after enactment of the act, provided (*a*) the President would have authority to make such specific exemptions by Executive order from the authority of the Administrator of General Services as he deemed necessary in the public interest, and (*b*) provided that the act would not be applicable to property under the control of executive agencies outside the continental limits of the United States, Hawaii, Alaska, Puerto Rico, and the Virgin Islands.[3]

Witnesses heard included Gerald S. Wise, Executive Director, Hoover Commission Task Force on Surplus Property, Baltimore, Md.; Maxwell H. Elliott, General Counsel, General Services Administration, and Lewis C. Tuttle, Deputy Director, Personel Property Utilization and Disposal Division, General Services Administration; and Percival F. Brundage, Deputy Director, Bureau of the Budget, accompanied by George Mullins, Bureau of the Budget; all of whom were in general agreement with the basic principles of S. 2367, now incorporated in S. 2591.

Subsequent to the hearings, agreement was reached by the Subcommittee on Reorganization with the Bureau of the Budget, the General Services Administration, and the Hoover Commission task force upon the objectives of S. 2591, as herewith amended.

RELATED PROPOSALS

The committee is aware that the Hoover Commission and the task forces submitted other recommendations to the Congress relative to exemptions from the General Services Administrator's authority over transportation, warehousing, and management of real property, and that various bills have been introduced to implement some of these proposals. However, it is the consensus of the committee that because of the urgent necessity for the Administrator of the General Services Administration to be given broader authority over disposal of ever-increasing Government surpluses (now accumulating at the rate of $2 billion a year), it is more expedient for the Congress to take action at this time upon this phase of the overall problem rather than to risk delay by acting upon the other equally important but not as pressing matters. It is the committee's intention to give immediate attention to the related matters as quickly as is appropriate and feasible.

CONCLUSION

Based upon the facts presented herewith the committee can come to no conclusion other than that the enactment of S. 2591, as amended, is in the best interests of the Government, both from the viewpoint of efficiency and economy. Although it is extremely difficult to estimate

[3] The provision pertaining to foreign property contained in S. 2367 is not necessary in the enactment of S. 2591 because under the definitions of the Federal Property and Administrative Procedures Act of 1949, as amended, S. 2591 is applicable only to excess and surplus property within the continental limits of the United States.

realistically the dollar savings that will result from the further centralization of administrative authority in the General Services Administration over utilization and disposal of Government property, undoubtedly they will be substantial. At the same time, as previously noted, the committee recognizes that certain types of disposal programs should be continued to be administered by specific owning agencies.

The committee, in summary, is convinced that S. 2591 is an important step in the better management, utilization, and disposal of Government property and a solution to some of the problems relating thereto. The committee, therefore, reports favorably thereon, and recommends that the bill do pass.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (matter omitted enclosed in brackets, new matter printed in italics, existing law in which no change is reported shown in roman):

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949
REPEAL AND SAVING PROVISIONS

SEC. 602. (a) * * *

* * * * * * * *

"(g) (1) Notwithstanding the provisions of subsection (d) of this section or of any law other than this Act, the Administrator shall exercise the authority vested in him by this Act with respect to the utilization and disposal of all excess and surplus property, real and personal, which is under the control of any executive agency, except that nothing in this Act shall impair or affect any authority of—

"(A) any executive agency to dispose of property under its control when such disposal is made as specifically authorized by law in a particular manner, to a particular class or classes of persons, or for particular purposes, as part of or in furtherance of program activities of such agency, including, but not limited to, disposal by the Department of Agriculture of agricultural commodities acquired under price support or other agricultural assistance programs, and disposal by the Tennessee Valley Authority of reservoir lands, or power equipment facilities with appurtenant rights-of-way, and of other property similarly disposed of by such Authority in connection with its program activities, but the agency carrying out such program shall, to the maximum extent practicable consistent with the fulfillment of the purposes of the program and the effective and efficient conduct of its business, coordinate its operations with the requirements of this Act and the policies and regulations prescribed pursuant thereto; or

"(B) the Joint Committee on Printing under the Act entitled 'An Act providing for the public printing and binding and the distribution of public documents', approved January 12, 1895 (58 Stat. 601), as amended, or any other Act.

"(2) The President may by Executive order make such specific exemptions from the exercise by the Administrator of General Services of his authority under this subsection with respect to the utilization and disposal of excess and surplus property as the President deems to be necessary in the public interest."

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Calendar No. 1199

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1183

AMENDING THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED

JULY 28, 1955.—Ordered to be printed

Mr. KENNEDY, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 2364]

The Committee on Government Operations, to whom was referred the bill (S. 2364) to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes, having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

PURPOSE

The purpose of this bill is to amend section 505 (a) of the Federal Property and Administrative Services Act of 1949, as amended, to clarify the authority of the Administrator of General Services with respect to establishing standards, policies, and principles designed to improve the management of Federal records.

Under the existing statutory authority, it is contended that the GSA has only the authority to analyze and develop records management standards whereas this bill would permit the Administrator to prescribe policies and principles to be followed by other departments and agencies of the Government.

Section 2 of the bill authorizes the Administrator of General Services to direct and effect the transfer to the National Archives of any Federal records that have been in existence for more than 50 years, the Archivist to determine whether they have sufficient historical value to warrant their continued preservation. The authority would not apply in those cases where the head of the agency certifies to the Administrator that the records must be retained in his possession for the conduct of current official business.

The proposed legislation was submitted to the committee by the Administrator of General Services as a part of his legislative program for 1955, with a request for favorable action.

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NEED FOR LEGISLATION

This measure will broaden and clarify the authority of the Administrator of General Services so as to remove any doubt regarding his authority to establish procedural regulations to be followed by the various departments and agencies of the Federal Government. The GSA has informed the committee that, although such authority presently exists, the responsibility is not clearly set forth in the statute, and the proposed amendment would correct this deficiency in the law.

Under the authority contained in the Act to Establish a National Archives (48 Stat. 1122–1124), as amended, the National Archives Council had the authority to define classes of material which should be transferred to the National Archives and establish regulations governing such transfers of Federal records. When the Federal Property and Administrative Services Act was amended by Public Law 754, approved September 5, 1950, however, the National Archives Council was abolished, and the Administrator of General Services was authorized to establish a Federal Records Council to act in an advisory capacity to the Administrator. As a result, existing law does not authorize the Administrator of General Services nor the Federal Records Council (successor to the National Archives Council) to direct the head of any agency to transfer records of historical significance to the National Archives.

The initiative, therefore, rests on the head of each department or agency for transferring records of historical significance to the National Archives, and, if he elects to retain the records, no authority is presently vested in either the Archivist or the Administrator of General Services to direct the transfer of the records to the National Archives for safekeeping. To overcome this defect in the law, it was recommended by the General Services Administration, and concurred in by the Bureau of the Budget, that the Administrator should have the authority to not only receive records which an agency desires to turn over to the National Archives, but that he should be authorized to direct an agency head to transfer important documents or records which have been in existence for more than 50 years to the National Archives, unless the agency head determines and certifies that such records are needed for current official business.

The provisions of this bill are intended to parallel the authority now vested in the Comptroller General of the United States, by section 205 (b) of the act, with respect to prescribing principles and standards for property accounting by executive departments and agencies.

HOOVER COMMISSION RECOMMENDATIONS

This bill is designed to implement in part the recommendations of the Commission on Organization of the Executive Branch of the Government (second Hoover Commission), in its report on paperwork management, which provides in part as follows:

* * * the GSA be given responsibility for general supervision of all phases of paperwork management throughout the executive branch of the Government * * *.

The Commission also adopted the task force recommendations on paperwork management wherein it recommended that—

(1) The GSA serve as a clearinghouse for all Federal agencies for management information relating to the paperwork management program.

(2) The GSA, in cooperation with agencies concerned initiate action to reduce the percentage of records designated as permanent.

It was pointed out in the task force report that the Government retains 26 percent of all records permanently, while records kept permanently by private industry average 4 percent, and that there is need for more centralized direction and control over the records-management program.

AGENCY COMMENTS

This bill has been approved by the General Services Administration, and it is understood that the Bureau of the Budget has interposed no objection to its enactment. The committee is informed that the proposed legislation was cleared with many of the affected agencies before it was submitted to the Congress.

On May 11, 1955, the chairman introduced S. 1928, by request, which is identical to section 2 of this bill and on which the Bureau of the Budget commented as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., June 23, 1955.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of May 13, 1955, requesting the views of this office on S. 1928, to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes.

This bill requires the transfer to the National Archives of Federal records with historical or other value which have been in existence for more than 50 years unless the head of the agency having custody of the records certifies in writing that they are being used in the current work of the agency.

The Bureau believes that Federal records having historical value should become part of the National Archives when they are no longer required for current business and recommends favorable consideration of the bill by your committee.

With respect to your inquiry as to the attitude of other agencies to this proposal, the subject of S. 1928 was originally incorporated in an omnibus draft bill prepared by the General Services Administration in 1953. At that time, a number of agencies, including the Department of Defense, the Atomic Energy Commission, the Department of State, and others, indicated that they had no objection to this particular proposal, except for the General Accounting Office which asked to be exempted. Furthermore, we are receiving proposed reports from several agencies on an identical House bill, H. R. 6091, 84th Congress, and to date there has been no opposition to the proposal. So far as we are aware, there would be no objection to the bill, particularly since it does not authorize the destruction of records but merely their transfer to the National Archives for preservation and since the final decision to transfer records is reserved to the head of the agency.

Sincerely yours,

HAROLD PEARSON,
Assistant Director.

The first section of S. 2364 was drafted by the General Services Administration and transmitted to the President of the Senate, for introduction, by letter dated May 26, 1955. That Administration commented as follows in justification of this section which was incorporated in the bill under consideration:

GENERAL SERVICES ADMINISTRATION,
Washington 25, D. C., May 26, 1955.

Re proposed legislation.

The PRESIDENT OF THE SENATE,
United States Senate, Washington 25, D. C.

DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation, to amend the Federal Property and Administrative Services Act of 1949, as amended. This proposal is a part of the legislative program of GSA for 1955.

This proposed legislation would amend the Federal Property and Administrative Services Act of 1949, as amended, by clarifying the language of section 505 (e), by resolving any doubt as to the authority of GSA to establish standards, procedures, and techniques designed to improve the management of records. Under the present statutory authority, it is implied that while such authority exists, this responsibility is not clearly set forth.

A restricted interpretation of this section in the foregoing statute, in its present form, might permit a controversy concerning the establishment of such standards, procedures, and techniques. It could be said that GSA had only the duty and responsibility of analyzing and developing such standards and that the establishment of these standards could or would be carried out by some other Federal agency.

It is believed from a consideration of the legislative history of the aforesaid act, that it was the intent of the Congress that GSA should not only develop these standards but should establish them, and be vested with the full responsibility of setting up standards for the economical and efficient management of records.

The enactment of this proposal would not involve the expenditure of Federal funds, and it is strongly recommended that this proposal be enacted by the Congress.

The Bureau of the Budget has advised that there is no objection to the submission of this proposed legislation to the Congress.

Respectfully yours,

EDMUND F. MANSURE, *Administrator.*

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (matter omitted enclosed in brackets, new matter printed in italics, existing law in which no change is reported shown in roman):

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949

* * * * * * *

SEC. 505. (a) The Administrator shall, *with due regard to the program activities of the agencies concerned, prescribe the policies and principles to be followed by Federal agencies in the conduct of their records management programs, and* make provisions for the economical and efficient management of records of Federal agencies (1) by analyzing, developing, promoting, and coordinating standards, procedures, and techniques designed to improve the management of records, to insure the maintenance and security of records deemed appropriate for preservation, and to facilitate the segregation and disposal of records of temporary value, and (2) by promoting the efficient and economical utilization of space, equipment, and supplies needed for the purpose of creating, maintaining, storing, and servicing records.

* * *

ARCHIVAL ADMINISTRATION

SEC. 507. (a) The Administrator, whenever it appears to him to be in the public interest, is hereby authorized—

(1) to accept for deposit with the National Archives of the United States the records of any Federal agency or of the Congress of the United States that are determined by the Archivist to have sufficient historical or other value to warrant their continued preservation by the United States Government;

(2) to direct and effect the transfer to the National Archives of the United States of any records of any Federal agency that have been in existence for more

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than fifty years and that are determined by the Archivist to have sufficient historical or other value to warrant ther continued preservation by the United States Government, unless the head of the agency which has custody of them shall certify in writing to the Administrator that they must be retained in his custody for use in the conduct of the regular current business of the said agency.

[(2)] *(3)* to direct and effect, with the approval of the head of the originating agency (or if the existence of such agency shall have been terminated, then with the approval of his success or in function, if any), the transfer of records deposited (or approved for deposit) with the National Archives of the United States to public or educational institutions or associations: *Provided*, That the title to such records shall remain vested in the United States unless otherwise authorized by Congress; and

[(3)] *(4)* to direct and effect the transfer of materials from private sources authorized to be received by the Administrator by the provisions of subsection (e) of this section.

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Calendar No. 1200

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1184

RELATIVE TO THE ESTABLISHMENT OF UNIFORM FEES AND CHARGES BY GOVERNMENT AGENCIES FOR WORK OR OTHER THINGS OF VALUE PERFORMED BY THEM

JULY 28, 1955.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. Res. 140]

The Committee on Government Operations, to whom was referred the resolution (S. Res. 140), relative to the establishment of uniform fees and charges by Government agencies for work or other things of value performed by them, having considered the same, report favorably thereon, with an amendment, and recommend that the resolution do pass. The amendment is as follows:

On page 3, line 6, strike out "$30,000" and insert in lieu thereof "$15,000".

On February 15, 1950, the Committee on Government Operations directed the staff to report on the adequacy of fees charged for Federal services being rendered to special beneficiaries, including some services now extended without any charge, as distinguished from services rendered in the general public interest (S. Rept. No. 1, 82d Cong.). On July 24, 1950, such a report was submitted to the Senate based on reports received from a selected group of agencies (S. Rept. No. 2120, 81st Cong.). Copies of the report were sent to the chairmen of all standing committees of both the Senate and House of Representatives. Their responses indicated an encouraging intent to utilize the report in relation to future legislation.

Statutory language designed to stimulate adequate charges for special services by the Government was subsequently prepared by the General Accounting Office and the Bureau of the Budget at the request of the Independent Offices Appropriations Subcommittee of the House Appropriations Committee. As a result, the independent-offices aspect of the Omnibus Appropriation Act of 1952 (title V), authorized Government agencies to make charges for services in cases

where no charge is made at present, and to revise them where present charges are too low, except in cases where the law specifically provides that no charge shall be made, or fixes its amount in the law.

The Director of the Bureau of the Budget was requested to survey agency fees and charges throughout the Federal Government, and submitted a report on January 28, 1952, describing the steps which had been taken since initiation of the program in 1950. He estimated that a total of almost $50 million of new revenue annually was then in sight from the above program, as follows: Additional charges of $22.5 million per year being collected for a variety of special services; the 1953 budget is adding another $15 million annually of such fees under programs then being formulated; $9 million a year in increased revenues to be derived from increased rentals and service charges for quarters furnished by the Government to Federal civilian employees; and an additional $2 million from fees for special services as to which detailed income estimates were not available at the time of the report.

In January 1952, the General Accounting Office initiated a nationwide survey of the charges prevailing during calendar year 1951 for the rent, utilities, and services connected with the Government-owned quarters which are provided Federal employees and others under authority of the act of March 5, 1928 (5 U. S. C. 75a). Studies were made at more than 200 installations which operated approximately 37,000 rental units in 41 States and the District of Columbia, under the jurisdiction of six departments and establishments during 1951. This field work of the GAO was practically completed on June 30, 1952, and a report submitted for the information of the Congress, the Bureau of the Budget, and the agencies concerned.

The committee has been informed that the American Bar Association recommended to the Senate Committee on Appropriations this year that title V of the Independent Offices Appropriation Act of 1952, referred to above, be repealed, and that a review of the necessity and desirability of the establishment of fees charged by Federal agencies as authorized by such title be initiated by the appropriate committee. The Committee on Appropriations took no action on the proposed repealer, on the premise that it involves problems for consideration and action by the appropriate jurisdictional committees.

Senator Magnuson, in introducing this resolution in the Senate, on behalf of himself and Senator Bricker, made the following statement in behalf of its adoption (p. 10024, Congressional Record, July 27, 1955):

Mr. MAGNUSON. Mr. President, on behalf of myself, as chairman of the Senate Committee on Interstate and Foreign Commerce, and the Senator from Ohio [Mr. Bricker], the ranking Republican of that committee, I submit for appropriate reference, a resolution relative to the establishment of uniform fees and charges by Government agencies for work or other things of value performed by them.

The resolution would authorize the Committee on Government Operations to direct a full and complete study and investigation of the feasibility and practicability of establishing uniform fees and charges for any work, service, franchise, license, permit, or similar thing of value furnished or granted by any Federal agency.

When the Congress enacted the Independent Offices Appropriation Act of 1952, a rider was attached—title V, United States Code, section 140—indicating that it was the sense of the Congress that any work, service, license, permit, certificate, or similar thing of value issued to or for any person by any Federal agency should be self-sustaining to the fullest extent possible, and authorized the head of each Federal agency to prescribe fees and charges accordingly.

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Pursuant to this provision, the Bureau of the Budget, acting on behalf of the President, made a study of this matter and issued a circular dated November 5, 1953, Circular A–25, directing the various agencies to establish a schedule of fees "which, taking account of the value to the recipient and the public policy of interest served, shall recover to the fullest extent possible the aggregate costs incurred in the conduct of these activities."

A number of the agencies, acting pursuant to this directive, issued schedules of fees and charges which would reimburse the agencies for the costs incurred by the agencies both directly and indirectly in rendering the services or in issuing the licenses.

Recently, the American Bar Association through its section of administrative law appeared before the Subcommittee on Appropriations and urged that title V of the Independent Offices Appropriation Act of 1952, as it applies to fees and charges, be repealed, and in the meantime, that a resolution be adopted which would suspend any agencies' action that was planned or undertaken under title V until Congress had an opportunity to examine the entire problem of fees and charges. The bar association's testimony is set out in detail in the appropriations hearings.

The committee in considering this problem in a recent session concluded that a uniform system of uniform fees and charges for all agencies as described in title V of the Appropriations Act of 1952 would appear to be an appropriate subject for study and consideration by a proper committee of the Senate. In this instance it is obvious that the Committee on Government Operations which, under the Legislative Reorganization Act of 1946—Public Law 601, 79th Congress, August 2, 1946—has the responsibility of "studying the operation of Government activities at all levels with the view of determining its economy and efficiency" is the proper committee to make the study because all Government departments and agencies come within its jurisdiction for such purposes.

I want to emphasize at this point that the committee is not hostile to the idea of assessing fees and charges but the committee members are of the opinion that such fees and charges, if feasible and practicable, should be based on uniform standards and should be fair and equitable.

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Calendar No. 1201

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1185

PROVIDING PERMANENT AUTHORITY FOR THE RELIEF OF CERTAIN DISBURSING OFFICERS

JULY 28, 1955.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 7034]

The Committee on Government Operations, to whom was referred the bill (H. R. 7034) to provide permanent authority for the relief of certain disbursing officers and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

This bill would (1) permit the Comptroller General to relieve disbursing officers of the United States whose accounts reflect losses or deficiencies resulting from illegal, improper, or incorrect payments, not due to fault or negligence on their part; (2) vest authority in the Comptroller General to adjust and clear the accounts of disbursing officers to whom such relief has been granted; (3) provide a permanent and uniform method for the relief of disbursing officers of the military departments whose accounts reflect physical losses or deficiencies not due to fault or negligence on their part; and (4) provide authority for the reimbursement of amounts paid by or on behalf of military department disbursing officers in restitution of physical losses or deficiencies in their accounts, not due to fault or negligence on their part.

BACKGROUND

The act of August 1, 1947 (61 Stat. 720, 31 U. S. C. 82a–1) authorizes the General Accounting Office to relieve a disbursing officer, in a proper case, only for a physical loss or deficiency in his accounts, if such loss or deficiency occurred while the officer was acting in the discharge of his official duties, or by reason of an act or omission of a subordinate, and without fault or negligence on his part. The General Accounting Office is provided with similar authority with respect

to Army disbursing officers by the act of December 13, 1941 (31 U. S. C. 95a) and with respect to Navy disbursing officers by the act of July 11, 1919 (31 U. S. C. 105). Each of these latter statutes, however, vests in the respective service secretary authority to determine whether such loss occurred in the line of duty and without fault or negligence on the part of such officer, and makes such determination conclusive upon the General Accounting Office.

However, existing law provides no authority for the relief of a disbursing officer who has losses or deficiencies in his accounts as a result of illegal, improper or incorrect payments, incurred in the line of duty and without fault, or negligence on his part. Thus, at the present time, the only method of obtaining relief for such disbursing officers is through the enactment by the Congress of private relief legislation. The processing of such private relief legislation is burdensome to both the executive and legislative branches of the Government. Furthermore, the Treasury Department advises that suits are sometimes instituted against disbursing officers under their bonds, in which event they must take steps to defend themselves even though they acted in good faith. Eventually, relief is usually granted by the Congress, but it is a long, drawn-out process. Finally, the Department of Defense advised that each year large numbers of private bills must be submitted to the Congress which require a complete description of the overpayment, including detailed accounting references, a statement of the circumstances under which each overpayment occurred, as well as a discussion of the circumstances preventing collection from the respective payees. One recent relief measure involved overpayments in the accounts of 189 disbursing officers in the military departments, representing approximately 1,367 items of overpayments, totaling $122,089.68. Of these items, 487 represented overpayments in amounts of less than $25.

It should be noted that the terms "illegal" and "improper" as here used do not imply fraudulent or wrongful conduct, but refer to a payment which the Comptroller General finds is not in strict technical conformity with the law.

Other agencies and departments of the Government which have disbursing officers, such as the Post Office Department, the Housing and Home Finance Agency, and the Treasury Department must also submit large numbers of private bills to the Congress in order to obtain relief for their disbursing officers.

A second problem here involved relates to the need for permanent authority to clear the accounts of disbursing officers to whom relief has been granted. Should the subject bill become law, the Comptroller General would have authority to relieve disbursing officers for illegal, improper, or incorrect payments, in a proper case. However, the amounts of money in question would continue to be reflected as deficiencies in the account of such officers even though they would be relieved of responsibility. In the absence of permanent specific authority it will be necessary for the Congress, from time to time, to appropriate funds to enable the clearance of such accounts. Accordingly, the Comptroller General and the Treasury Department have requested that permanent authority be vested in the Comptroller General to clear such accounts under the circumstances stated.

A third problem here involved relates to the need for a permanent and uniform method for relieving disbursing officers of the Department

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of Defense of liability arising out of physical losses and deficiencies, incurred in the line of duty and not the result of bad faith or lack of due care on the part of such officers. As shown previously, under existing law, authority for such relief is contained in two separate statutes: the act of December 13, 1941 (31 U. S. C. 95a) which authorizes the Comptroller General to relieve Army disbursing officers; and the act of July 11, 1919 (31 U. S. C. 105) which authorizes the Comptroller General to relieve Navy disbursing officers. Approval of the subject bill would provide permanent uniform authority for the relief of all military department disbursing officers, in the event of physical losses and deficiencies, in one provision of law, and the act of July 11, 1919, referring to the Navy, would be repealed.

COMMITTEE ACTION

1. Action on original Senate bill

The committee originally had before it a Senate bill, S. 1927, introduced at the request of the Department of the Army, on behalf of the Department of Defense. As originally introduced, it was the purpose of S. 1927 to (1) provide a permanent and uniform method for relieving disbursing officers of the Army, Navy, Air Force, and Marines for illegal, improper, or incorrect payments made without fault or negligence on their part; and (2) to amend existing law relative to the relief of Army and Navy disbursing officers for physical losses and deficiencies in their accounts, without fault or negligence on their part, so as to include in one provision of law all disbursing officers of the military departments. The separate provision of law covering only disbursing officers of the Department of the Navy would have been repealed.

Subsequently, the Department of Defense proposed an amendment which would have authorized the reimbursement of amounts paid in restitution of physical losses by or on behalf of military department disbursing officers for losses which occurred after the effective date of the amendment. The Comptroller General and the Treasury Department proposed additional amendments under which the authority of the Comptroller General to relieve for losses and deficiencies in accounts of disbursing officers for illegal, incorrect, or improper payments would be extended to all disbursing officers of the United States; and the Comptroller General would be further authorized to adjust and clear the accounts of disbursing officers to whom such relief was granted.

Following receipt of the various proposed amendments, the committee staff, together with representatives of the Legislative Counsel of the Senate, the Comptroller General, the Treasury Department, the Bureau of the Budget, and the Departments of Defense, Army, Navy, and Air Force, conferred at length concerning the redrafting of the subject bill in such a manner as to cover all of the requirements.

Because these proposed amendments entailed considerable revision, it was the judgment of the committee that the best practice would be to prepare a clean bill.

Section 1 (a) would vest in the Comptroller General, upon his own motion or upon the written findings and recommendations of department or agency heads, the authority to relieve any disbursing officer or former disbursing officer of the United States of accounta-

bility and responsibility for any deficiency in his official disbursing account in consequence of the making of any illegal, improper, or incorrect payment. It further authorizes the Comptroller General to deny such relief in any case in which he determines that the department or agency concerned has not diligently pursued collection action in accordance with procedures prescribed by the Comptroller General.

Section 1 (b) provides that nothing contained therein shall affect the liability or authorize the relief of any payee, beneficiary, or recipient of any illegal or improper payment, or relieve any such disbursing officer, department or agency head or the Comptroller General of responsibility to pursue collection action against such payee, beneficiary, or recipient. It provides further that this section shall not deprive any such disbursing officer of any right which he otherwise might have to obtain relief with respect to such payments by any other means (private bill).

Section 1 (c) provides the necessary continuing specific legislative authority in the Comptroller General to clear the accounts of disbursing officers who have been relieved of responsibility. Although under section 1 (a), the Comptroller General would be authorized to relieve a disbursing officer of responsibility for illegal, improper, or incorrect payments, in a proper case, unless specific legislative authority is provided, the deficiency would remain a charge on the account of such officer, and special appropriations would be necessary to enable the account to be cleared. This subsection, requested by the Treasury Department and the Comptroller General, would provide the necessary authority by permitting the Comptroller General, in a proper case, to restore or otherwise adjust the account of any disbursing officer to the extent of the amount of relief granted under this section and would authorize the amount to be charged to the appropriation or fund available for the disbursing function at the time the adjustment is effected, unless another appropriation is specifically provided therefor. This would conform to the authority which would be vested in the Comptroller General by H. R. 7035, with respect to the adjustment and clearance of accounts of accountable officers in the event of relief for physical losses and deficiencies.

Section 2 (a) would amend the act of December 13, 1944 (31 U. S. C. 95a) which authorizes relief, in a proper case, of Army disbursing officers for physical losses and deficiencies in their accounts, by including disbursing officers of the Air Force, Navy, and Marine Corps. This would provide for relief of all disbursing officers of the military departments in a uniform fashion and in a single provision of law, rather than in separate provisions as under existing law.

Section 2 (b) would empower the Comptroller General to authorize the reimbursement of amounts paid in restitution of physical losses and deficiencies in the accounts of disbursing officers of the military departments, by or on behalf of such officers, but limits such reimbursement to losses or deficiencies occurring subsequent to the effective date of the act.

It should be noted that the effect of this latter amendment would be to afford to disbursing officers of the military departments who have made personal restitution to their accounts for physical losses or deficiencies two separate statutes under which to claim reimbursement, in the event that the pending bill, and a related measure, H. R. 7035, are enacted into law. For losses or deficiencies which

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occurred prior to the effective date of this act, they could claim reimbursement under the act of August 1, 1947, as amended, which authorizes reimbursement for losses occurring subsequent to August 1, 1947. For losses occurring subsequent to the effective date of the enactment of the subject bill, they can claim under its provisions.

Section 3 would repeal the act of July 11, 1919, authorizing relief of Navy disbursing officers for physical losses, since the enactment of the pending bill would include all agencies within the Department of Defense.

2. Action on the House bill, H. R. 7034

Following completion of the redraft of S. 1927, as indicated above, a copy of the revised bill, containing the proposed amendments, was made available to the House Committee on Government Operations which proceeded to report favorably a clean bill, H. R. 7034, on June 29, 1955 (H. Rept. 996). This bill, which embodies all of the proposed amendments agreed to by this committee and is identical in every respect to the redraft of S. 1927, passed the House of Representatives on July 18, 1955.

In view of the fact that the House of Representatives has already taken final action on H. R. 7034, the committee substituted that bill for S. 1927, as redrafted, with a view to expediting action thereon.

CONCLUSIONS

The enactment of this bill, as amended, would provide an administrative method of relieving all disbursing officers of the United States whose accounts reflect deficiencies resulting from illegal, improper, or incorrect payments made without fault or negligence on their part. This, in turn, would relieve the various departments and agencies concerned, as well as the Congress, of the substantial burden entailed in the preparation, handling, submission, and consideration of large numbers of private relief bills. Although some private relief bills may still be necessary to reimburse disbursing officers who restored losses to their accounts prior to 1947, their number is expected to be negligible. It would also serve to improve Government accounting practices by providing the necessary permanent authority in the Comptroller General to adjust and clear accounts which must now be cleared by specific statutes. Finally, it will provide a uniform method and procedure for the relief of military department disbursing officers by centralizing in one statutory provision the necessary authority which is now derived from two separate statutes.

The subject bill, as amended, has the approval of the Comptroller General, the Bureau of the Budget, the Treasury Department, and the Departments of Defense, Army, Navy, and Air Force. Its favorable consideration is strongly urged. It is largely technical in nature and is not expected to entail any additional cost to the Government. Furthermore, it may result in some economy by eliminating the costly agency staff work required in connection with the submission of private relief bills.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by this bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACT OF DECEMBER 13, 1944

(58 Stat. 800 as amended; 31 U. S. C. 95a)

[The General Accounting Office shall relieve any disbursing officer of the Army charged with responsibility on account of loss or deficiency while in the line of duty, of Government funds, vouchers, records, or papers in his charge, where such loss or deficiency occurred without fault or negligence on the part of said officer: *Provided*, That the Secretary of the Army shall have determined that the officer was in the line of his duty, and the loss or deficiency occurred without fault or negligence on his part: *Provided further*, That the determination by the Secretary of the Army of the aforesaid questions shall be conclusive upon the General Accounting Office: *And provided further*, That this section shall be applicable only to the actual physical loss of Government funds, vouchers, records, or papers, and shall not include deficiencies in the accounts of disbursing officers of the Army resulting from illegal or erroneous payments.]

(a) That whenever (1) any disbursing officer of the Army, Navy, Air Force, or Marine Corps incurs or has incurred a physical loss or deficiency of any Government funds, vouchers, records, or papers in his charge and (2) the Secretary of the department concerned determines that such loss or deficiency occurred while the officer was in line of his duty and that such loss or deficiency occurred without fault or negligence on his part, the General Accounting Office shall relieve such officer of the liability for such loss or deficiency, or authorize the reimbursement, from any appropriation or fund made available for that purpose, of amounts paid by or on behalf of such officer in restitution of such loss or deficiency. Any determination made by the Secretary of the department concerned under this Act shall be conclusive upon the General Accounting Office. No relief may be granted under this Act with respect to any deficiency in the accounts of any disbursing officer which results from any illegal or erroneous payment. This Act shall not deprive any disbursing officer of any right which he otherwise may have to obtain relief by any other means with respect to any loss or deficiency covered by this Act.

(b) No reimbursement shall be made under the amendment made by subsection (a) for any loss or deficiency occurring before the date of enactment of this Act.

THE SECOND PARAGRAPH UNDER THE HEADING "PAY, MISCELLANEOUS," OF THE FIRST SECTION OF THE ACT OF JULY 11, 1919

(41 Stat. 132 as amended; 31 U. S. C. 105)

[The General Accounting Office shall relieve any disbursing officer of the Navy charged with responsibility on account of loss or deficiency while in the line of his duty, of Government funds, vouchers, records, or papers, in his charge, where such loss or deficiency occurred without fault or negligence on the part of said officer: *Provided*, That the Secretary of the Navy shall have determined that the officer was in line of his duty, and the loss or deficiency occurred without fault or negligence on his part. The determination by the Secretary of the Navy of the aforesaid questions shall be conclusive upon the General Accounting Office.]

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Calendar No. 1202

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1186

AMENDING SECTION 1 OF THE ACT ENTITLED "AN ACT TO AUTHORIZE RELIEF OF ACCOUNTABLE OFFICERS OF THE GOVERNMENT, AND FOR OTHER PURPOSES," APPROVED AUGUST 1, 1947 (61 STAT. 720)

JULY 28, 1955.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 7035]

The Committee on Government Operations, to whom was referred the bill (H. R. 7035) to amend section 1 of the act entitled "An act to authorize relief of accountable officers of the Government, and for other purposes," approved August 1, 1947 (61 Stat. 720), having considered the same, report favorably thereon, without amendment and recommend that the bill do pass.

PURPOSE

This bill would empower the General Accounting Office to authorize reimbursement of any disbursing or other accountable officer of the Federal Government for payments made by him or in his behalf in restitution of a physical loss or deficiency in his accounts, if such loss or deficiency occurred without fault or negligence on his part, and such reimbursement is recommended by the department or agency head concerned. Reimbursement would be authorized from any appropriation or fund available for the purpose of the activity in which the loss or deficiency occurred. The bill is designed to amend existing law which permits relief of such an officer, in a proper case for an actual physical loss or deficiency, but which, according to a decision of the Comptroller General, fails to authorize the reimbursement of such officer if he has personally made restitution. It would also eliminate the need for the submission to the Congress of numerous private bills by which such officers are now reimbursed. In addition, the bill would vest authority in the Comptroller General to adjust and clear the accounts of disbursing and other accountable officers to whom relief has been granted.

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BACKGROUND

Under the provisions of the act of August 1, 1947 (61 Stat. 720), the General Accounting Office, if it concurs with the determination of the department or agency head concerned, is authorized to relieve disbursing or other accountable officers charged with responsibility on account of physical loss or deficiency in funds, records, etc., if such loss or deficiency occurred while the officer was acting in the discharge of his official duties or by reason of an act or omission of a subordinate, and without fault or negligence on the part of such officer (31 U. S. C. 82a–1).

The Comptroller General is provided with similar authority with respect to Army disbursing officers by the act of December 13, 1944 (31 U. S. C. 95a), and with respect to Navy disbursing officers by the act of July 11, 1919 (31 U. S. C. 105). Each of these latter statutes, however, vests in the respective military service Secretary authority to determine whether such loss occurred in the line of duty and without fault or negligence on the part of such officer and makes such determination conclusive upon the General Accounting Office.

It appears that in a large number of instances, accountable officers, in whose accounts deficiencies appeared, made restitution to their accounts out of their own pockets to cover deficiencies resulting from counterfeit banknotes, bad checks, petty thefts by subordinates and other physical losses, although they were not themselves personally or officially at fault, and were otherwise entitled to relief from responsibility under the provisions of this act.

In 1947, shortly after the enactment of the act of August 1, 1947, an accountable officer who had personally covered a shortage in his official accounts applied to the General Accounting Office, through his own agency head, for relief under the provisions of the act. In a decision rendered on January 27, 1948 (B–71073), the Comptroller General held that, although the act authorized relief of responsibility on account of a deficiency in Government funds in a proper case, once restitution was made by or on behalf of the accountable officer no deficiency existed in the account for which relief under the act can be granted, nor was there any appropriation available from which reimbursement could be made (27 Comp. Gen. 404).

Following this decision, and several later pronouncements of the Comptroller General to the same effect in subsequent cases submitted to him, it became necessary to submit private bills to the Congress in order to obtain reimbursement. For the most part, the amounts of money involved have been small, ranging between $10 and $100.

In 1954, in a case involving a $20 restitution by an employee of the Housing and Home Finance Agency, arising out of the acceptance by the employee of a $20 counterfeit banknote, the Administrator requested the Comptroller General to reconsider his decision of January 27, 1948 (27 Comp. Gen. 404). It was pointed out that an interpretation of the relief statute (Public Law 321, 80th Cong.) "which renders it inapplicable solely because the accountable officer has made payment seems to defeat the purpose of the act and tends to penalize accountable officers who manifest good faith by putting their accounts in balance pending the determination of the question of relief."

In a decision (B–121557), dated November 5, 1954, the Comptroller General reaffirmed his earlier decision that the act of August 1, 1947, does not apply in such cases. Concerning the effect of this interpretation on accountable officers who have acted in good faith, the Comptroller General stated:

> This Office has recognized that inequities would arise as a result of such interpretation of the relief act involved and the matter has been thoroughly considered, not only at the time the decision referred to above was rendered but also in a number of subsequent decisions involving the application of that act. * * * It is the view of this Office that the act is open to no other construction and that any inequities which arise from such construction are for the consideration of the Congress. Consequently, this Office has, in proper cases, favorably reported on several private relief measures * * *.

COMMITTEE ACTION

1. Action on original Senate bill

The committee originally had before it a Senate bill, S. 1806, introduced at the request of the Administrator of the Housing and Home Finance Agency. The Comptroller General and the Treasury Department proposed several amendments to that bill, designed to clarify the application of its provisions and to provide legal authority for the clearance of accounts of officers to whom relief is granted. Following a conference between the committee staff and representatives of the Legislative Counsel of the Senate, the Comptroller General, the Treasury Department, and the Bureau of the Budget, appropriate amendments were drafted, as follows:

(*a*) *Clarifying amendments.*—Although S. 1806, as originally introduced, provided for reimbursement, in a proper case, of accountable officers who personally made restitution of physical losses in their accounts, the Comptroller General pointed out that some doubt existed as to whether the language of the bill would authorize the reimbursement of persons other than accountable officers who made restitution on behalf of such officers. This would include estates, sureties, etc. Accordingly, he proposed that specific authority be included in the bill to authorize reimbursement of such persons. He pointed out further that some clarification was required with respect to the authorization of reimbursement of amounts paid before, as well as those paid subsequent to, the enactment of the bill. It was ultimately agreed that reimbursement should date back to losses occurring on or after the effective date of the original act, i. e., August 1, 1947.

(*b*) *Authority for clearance of accounts.*—Although under existing law, the General Accounting Office has authority, in a proper case, to grant relief to accountable officers with losses or deficiencies in their accounts, the amount of money involved continues to be reflected as a deficiency in the account of such officer, even though he has been relieved of responsibility. It appears that such deficiency can only be cleared by specific appropriations or by specific statutory authority to clear the account. At present, there is no such authority, although, in some instances, the Congress has made specific appropriations to enable such accounts to be cleared. The Comptroller General and the Treasury Department requested permanent and continuing authority, in the interest of sound accounting practice, to enable the clearance of such accounts. Accordingly, the committee

agreed to the addition of the language necessary to accomplish this objective.

2. Action on the House bill, H. R. 7035

Following the completion of preliminary action on S. 1806, as indicated above, a copy of the bill with proposed amendments was made available to the House Committee on Government Operations which proceeded to report favorably a clean bill, H. R. 7035, on June 29, 1955 (H. Rept. 997). This bill, which embodies the major amendments agreed to by this committee, passed the House of Representatives on July 18, 1955.

In view of the fact that the House of Representatives has already taken final action on H. R. 7035, the committee substituted that bill for S. 1806, as amended, with a view to expediting action thereon.

CONCLUSIONS

The enactment of this bill will result in the removal of existing inequities, the elimination of the need for the submission to the Congress of large numbers of private bills, and the improvement of Government accounting practices. It has the approval of the Director of the Bureau of the Budget as well as other agencies and departments of the Government, and its favorable consideration is strongly urged by the Comptroller General and the Treasury Department which were instrumental in drafting and submitting the measure. It is largely technical in nature and is not expected to entail any additional cost to the Government. Furthermore, it may result in some economy by eliminating the costly agency staff work required in connection with the submission of private relief bills.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of the rule XXIX of the Standing Rules of the Senate, changes in existing law made by this bill are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 1 OF THE ACT OF AUGUST 1, 1947

(61 Stat. 720, 31 U. S. C. 82a–1)

The General Accounting Office is authorized, after consideration of the pertinent findings and if in concurrence with the determinations and recommendations of the head of the department or independent establishment concerned, to relieve any disbursing or other accountable officer or agent or former disbursing or other accountable officer or agent of any such department or independent establishment of the Government charged with responsibility on account of physical loss or deficiency of Government funds, vouchers, records, checks, securities, or papers in his charge, *or to authorize the reimbursement, from any appropriation or fund available for purposes of the activity in which the loss or deficiency occurred, of amounts paid subsequent to August 1, 1947, by or on behalf of the officer or agent in restitution of the loss or deficiency,* if the head of the department or independent establishment determines (1) that such loss or deficiency occurred while such officer or agent was acting in the discharge of his official duties, or that such loss or deficiency occurred by reason of the act or omission of a subordinate of such officer or agent; and (2) that such loss or deficiency occurred without fault or negligence on the part of such officer or agent. This Act shall be applicable only to the actual physical loss or deficiency of Government funds, vouchers,

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records, checks, securities, or papers, and shall not include deficiencies in the accounts of such officers or agents resulting from illegal or erroneous payments. *Whenever it is necessary in the opinion of the Comptroller General to restore or otherwise adjust the account of any disbursing or accountable officer or agent or former disbursing or other accountable officer for relief heretofore or hereafter granted under this act, the amount of such relief shall, unless another appropriation is specifically provided therefor, be charged to the appropriation or fund available for the expense of the disbursing or other accountable function at the time the adjustment is effected.*

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Calendar No. 1203

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1187

AUTHORIZING THE TEXAS HILL COUNTRY DEVELOPMENT FOUNDATION TO CONVEY CERTAIN LAND TO KERR COUNTY, TEX., AND SUCH COUNTY TO CONVEY A PORTION THEREOF TO THE STATE OF TEXAS

JULY 28, 1955.—Ordered to be printed

Mr. MCCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. J. Res. 276]

The Committee on Government Operations, to whom was referred the resolution (H. J. Res. 276) to authorize the Texas Hill Country Development Foundation to convey certain land to Kerr County, Tex., having considered the same, report favorably thereon, without amendment, and recommend that the joint resolution do pass.

PURPOSE

The purpose of this joint resolution is to authorize the conveyance of approximately 90 acres of unimproved land situated in Kerr County, Tex., heretofore conveyed by the United States to the Texas Hill Country Development Foundation pursuant to Private Law No. 480, 83d Congress, by said foundation to Kerr County, Tex., subject to the same terms, conditions, and restrictions which were incorporated in the original conveyance by the United States by deed executed February 1, 1955.

BACKGROUND

Pursuant to the authority of Private Law 480, 83d Congress, the land covered by this resolution was authorized to be conveyed to the Texas Hill Country Development Foundation in consideration of the payment of $16,500, under a conditional deed of conveyance providing that the property be used for the promotion of agriculture for a period of 25 years. The act further provided that in the event such property ceased to be used for this purpose, it would revert to the United States.

While the general provisions of law permit releases from such conditions and restrictions on real property transferred to certain nonprofit organizations, there is no provision of law which would

authorize the Government to remove the restrictions when the property is transferred pursuant to private law.

Although the property will continue to be used for the purpose for which it was originally conveyed, the Texas Hill Country Development Foundation desires to transfer title to the property to Kerr County, which has raised $200,000 under a special bond issue for development and maintenance of the property. Under the law, however, the expenditure of proceeds of the bond issue is limited to improvement of county-owned property. House Joint Resolution 276 would permit vesting of title in the county and utilization of the property for the purpose for which it was originally intended under the same terms and conditions as prescribed in the original conveyance authority.

House Report No. 1041, 84th Congress, accompanying House Joint Resolution 276, which passed the House of Representatives on July 18, 1955, contains the following additional explanation of the resolution.

The county, being also interested in the development and promotion of agricultural improvements, has indicated a willingness, except for the limitations on expenditures of money raised by bond issue, to assist financially with the development of the property in question. By arrangement between the county authorities and officials of the foundation, the foundation would continue operation and supervision of developing and using the land effectively for the purposes for which it was transferred by the Government, and any conveyance by them to Kerr County would contemplate and incorporate provisions continuing in effect all the provisions of Private Law 480, 83d Congress, and the implementing deed of conveyance.

AGENCY COMMENTS

The resolution has been approved by the Bureau of the Budget, General Services Administration and the General Accounting Office. The letter from the Comptroller General follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, July 21, 1955.

Hon. JOHN L. MCCLELLAN,
Chairman, Government Operations Committee,
United States Senate.

DEAR MR. CHAIRMAN: This is in reference to the telephone request today by a member of your committee staff for our comments on House Joint Resolution 276 which would authorize the conveyance of certain land by the Texas Hill Country Development Foundation, a nonprofit corporation, to Kerr County, Tex., and the reconveyance of a part thereof to the State of Texas.

Pursuant to Public Law 480, 83d Congress, the land involved was conveyed for $16,500 to the foundation for use in the promotion of agriculture through the encouragement of certain designated activities, subject to reversion of the land to the United States in the event it should cease to be used for such purposes before the expiration of 25 years.

While title 40, United States Code, section 484 (k) (2), and title 50, United States Code Appendix, section 1622, provide for releases from such conditions, reservations and restrictions on real property transferred to certain nonprofit organizations pursuant to the Surplus Property Act of 1944 and the Federal Property and Administrative Services Act of 1949, no provision of law has been found which authorizes any Government official to release the possibility of reverter on land which was transferred by the United States pursuant to private law. Hence this resolution would appear to be necessary if the possibility of reverter is to be modified as proposed.

Whether the land is held by Kerr County, Tex., or by the foundation would appear to make no essential difference insofar as the Government's possibility of reverter is concerned so long as the land continues to be used for the designated purposes. The deletion by the House Committee on Government Operations of

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section 2 of the bill as originally introduced, which would authorize a portion of the property to be conveyed to the State of Texas, is immaterial insofar as the interests of the Government are concerned.

Accordingly, we have no objection to the favorable consideration of the resolution.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

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Calendar No. 1204

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1188

PROVIDING FOR THE CONVEYANCE OF A PORTION OF THE FORMER O'REILLY GENERAL HOSPITAL, SPRINGFIELD, MO., TO THE STATE OF MISSOURI

JULY 28 1955.—Ordered to be printed

Mr. SYMINGTON, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 482]

The Committee on Government Operations, to whom was referred the bill (H. R. 482) to provide for the conveyance of a portion of the former O'Reilly General Hospital, Springfield, Mo., to the State of Missouri, and for other purposes, having considered the same, report favorably thereon, without amendment, and recommend that the bill do pass.

PURPOSE

The purpose of the bill is to authorize and direct the Administrator of General Services to convey, without monetary consideration, to the State of Missouri approximately 16.5 acres of unimproved surplus land upon certification by the Secretary of Defense and the Governor of Missouri that the property is needed for training or support of the National Guard. It further provides that necessary restrictions be placed in the deed of conveyance to reserve to the United States all mineral rights, including gas and oil, the right of possession by the Federal Government during any period of national emergency, and a proviso that in the event the property is not used for training of the National Guard or for other military purposes it would, at the option of the Secretary of Defense, revert to the United States.

The report of the House Committee on Government Operations (H. Rept. 1038, 84th Cong.) contains the following explanation and background in support of this bill:

HISTORICAL BACKGROUND

As a mobilization requirement the Federal Government during 1941–42 acquired 158 acres of land at Springfield, Mo., for the purpose of establishing and operating a United States Army hospital. Ninety-two acres of this total acquisition was by

donation from the city of Springfield, the city having acquired title in consideration of payment to the owners of $70,000 which was raised by public subscription. The O'Reilly General Hospital was established by the War Department and was operated by that Department until 1947 when the entire installation was transferred to the Veterans' Administration. In March 1953 the facility was declared excess to the needs of the Veterans' Administration and was transferred to the General Services Administration for disposition. In September 1954, upon the determination that there was no further Federal requirement for the property, it was declared surplus to the needs of the Federal Government. Since that time various parcels thereof, together with improvements, have been disposed of, mostly under public benefit allowance provisions of section 203 (k) of the Federal Property and Administrative Service Act of 1949, as amended. The remaining 16.2-acre parcel (unimproved since temporary buildings previously thereon have been disposed of separately) is the subject of this bill.

STATEMENT

The Congress, in exercise of its constitutional authority (art. IV, sec. 3) with regard to Federal property, has by general legislation provided for maximum utilization of federally owned property (Public Law 152, 81st Cong.) and has provided generally and specifically for disposal of surplus property consistent with the best interest of the United States. Accordingly, provisions have been made for transfers of surplus Government-owned property, both real and personal, to States, political subdivisions, and tax-supported or nonprofit institutions for health and educational purposes (sec. 203 (j) and (k), Public Law 152, 81st Cong.). Provisions are made for transfers without remuneration of surplus realty for historic monument purposes (50 U. S. C. App. 1622h). States or political subdivisions are given a public benefit allowance of 50 percent of the fair value with respect to transfers of surplus realty for park and recreational use (Public Law 616, 80th Cong.). Statutory provisions are made for transfer without monetary consideration of surplus, Government-owned airport property to States or political subdivisions for public airport use (50 U. S. C. 1622).

No current general legislative provision authorizes transfer of surplus Government-owned real property to States for National Guard purposes. However, legislation specifically designed and intended to enhance the strength and mobilization potential of the National Guard has since World War II manifested an unmistakable and continuing congressional policy of recognition of the importance of the National Guard, particularly as it is geared to any overall mobilization pattern. In particular, the National Defense Facilities Act of 1950 (Public Law 783, 81st Cong.), amendment and extension of which (H. R. 2107) was favorably acted on by the House of Representatives April 7, 1955, provides for substantial Federal financial assistance in the coordinated long-range, combined efforts of the Federal Government and the States to provide training facilities adequate to the increased requirements of civilian components of the armed services, including the National Guard. Public Law 475, 81st Congress, approved April 20, 1950, amending the National Housing Act, provided for the transfer without consideration to States for National Guard purposes of land, together with nondwelling structures thereon, held by the Housing and Home Finance Agency in connection with war or veterans' housing. In addition to this general legislation favorably affecting the National Guard numerous legislative enactments in each session of Congress have authorized and directed transfer of federally owned realty to the various States to be used for National Guard purposes. Such legislatively directed transfers, for the most part, have been of property excess to the needs of the holding agencies (as distinguished from property which has been declared surplus to requirements of the Government after screening pursuant to Public Law 152, 81st Cong., to assure maximum Federal utilization), and consequently have been favorably reported by the congressional committee having jurisdiction with regard to the particular holding agency. However, with rare exception and regardless of the reporting committee, each such enactment has provided that the transfer pursuant thereto would be subject to reservations of Federal right of use during national emergencies and conditioned on automatic reversion in the event of nonuse for National Guard purposes. This proposed legislation as amended specifically provides for similar conditions and reservations.

During the 83d Congress, 6 real property conveyances were legislatively authorized for National Guard purposes (Public Laws 356, 268, 327, 711, 712, and 713). During the current session of the 84th Congress, the following legislative conveyances for National Guard purposes have been enacted:

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H. R. 489, enacted into Public Law 49, 84th Congress
H. R. 775, enacted into Public Law 50, 84th Congress
H. R. 5170, enacted into Public Law 52, 84th Congress

Other bills are pending before the Armed Services Committee.

Though the States have a combined estimated $500 million in National Guard facilities (H. Rept. 425, 83d Cong.), it is a well-recognized fact, in view of the financial plight of most of the States and local governments, that little or no emphasis can be placed on National Guard training facilities without encouragement and assistance from the Federal Government. In the disposal of surplus Government-owned property, very often by donation, the committee feels that it will be difficult to imagine a more worthwhile purpose or one in which the public interest is so apparent than transfer to the States for National Guard purposes And it appears to the committee, in the light of continuing Federal legislation benefiting the National Guard, that in the disposal of surplus Government-owned property, transfers of such property to the States for National Guard purposes have been considered sufficiently in the public interest to warrant favorable action by the Congress.

AGENCY COMMENTS

Comments were elicited from the following executive agencies: Bureau of the Budget, General Accounting Office, General Services Administration, and the Department of Defense. No objections were interposed as to favorable consideration of the bill. Each agency, however, recommended amendments such as have been incorporated in this bill as favorably reported. In addition, the Department of the Army reporting for the Department of Defense suggested that the Congress might desire to include amendatory language specifically reducing any possible future Federal contribution toward armory construction pursuant to the Federal Defense Facilities Act of 1950 by the amount of the fair value of the land authorized to be transferred by this bill. It has been determined, however, that such a legislative stipulation has been included in only one of the numerous legislative conveyances for National Guard purposes (Public Law 268, 83d Cong., H. Rept. 936), and in that instance for the reason, as reported by the counsel of the House Armed Services Committee, that that bill (H. R. 1245, 83d Cong.) did not provide for the usual reservations (right of emergency use and reverter upon nonuse) to the United States. Also it would appear that the Secretary of Defense, under provisions of the Federal Defense Facilities Act of 1950, is statutorily authorized in his discretion not only to determine the desirability of Federal participation in a particular armory construction but also to prescribe the conditions of any Federal participation and the amounts (statutorily limited to 75 percent) to be contributed by the Federal Government. Accordingly, the committee does not believe it would be necessary or desirable to include limiting provisions as suggested in conveyance legislation of this nature.

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Calendar No. 1205

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1189

PROVIDING FOR THE ACCEPTANCE AND MAINTENANCE OF PRESIDENTIAL LIBRARIES

JULY 28, 1955.—Ordered to be printed

Mr. SYMINGTON, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. J. Res. 330]

The Committee on Government Operations, to whom was referred the joint resolution (H. J. Res. 330), to provide for the acceptance and maintenance of Presidential libraries, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the joint resolution do pass.

The amendments are as follows:

Page 2, line 10, strike out "(g)" and insert "(h)".

Page 2, line 12, strike out "subsections" and insert "subsection".

The amendments are technical in nature and do not change the substances of the resolution as approved by the House of Representatives.

PURPOSE

The purpose of this joint resolution is to authorize the Administrator of General Services to accept, for deposit, the papers, documents, and other historical materials of any President or former President of the United States, whenever the Administrator deems it to be in the public interest.

This resolution would make possible an effective and systematic procedure for the preservation and use of presidential papers when accepted by the Administrator of General Services as gifts to the United States for the purpose of establishing an archival depository. It would enable the President and former Presidents of the United States to plan for the preservation of their papers at the place of their choice, under agreements which would insure that the Government would make adequate provision for receiving, preserving, and administering them within necessary and appropriate restrictions which recognize and protect the President's rights.

This proposed legislation would not only enable the Government to acquire valuable collections of historical materials and property without cost, but would make possible the housing, within one establishment, of all types of materials relating to the history of a President and his administration, which should stimulate interest and research in American history.

PROVISIONS OF HOUSE JOINT RESOLUTION 330

This proposed legislation provides that the papers and historical materials of any President or former President of the United States, or of any other official or former official of the Government, and other papers "relating to and contemporary with any President or former President of the United States," may be accepted for deposit in the National Archives system, subject to restrictions agreeable to the Administrator of General Services as to their use.

The resolution would authorize the acceptance by the Government of any land, buildings, and equipment offered as a gift to the United States by any President or former President for the purpose of establishing a Presidential library or archival depository to be maintained and operated as a part of the National Archives system.

However, before any of the buildings, land or equipment intended to establish a Presidential archival depository is accepted by the Administrator of General Services, he must submit a written report to the President of the Senate and the Speaker of the House of Representatives, describing the property and documents offered as a gift to the Government together with an estimate of the cost thereof, and an estimate of the annual cost of maintaining and operating such proposed depository. The Administrator shall not take title to any property or enter into an agreement to accept land, buildings, or equipment to establish a Presidential archival depository until the expiration of 60 calendar days of continuous session of the Congress following the date of such submission.

The Administrator, in negotiating for the deposit of Presidential historical materials would be required to take the necessary steps to secure to the Government, so far as possible, the right to have continuous and permanent possession of such materials, subject to such restrictions respecting their availability and use as may be specified in writing by the donors or depositors, including the restriction that they shall be kept in a Presidential archival depository, such restrictions to be respected for so long a period as is specified, or until revoked or terminated by the donors or depositors.

In addition to the foregoing provisions, the resolution would authorize the Administrator to dispose of, by sale or exchange, any papers, documents, or materials which the Archivist determines to have no permanent value or historical interest; to cooperate with and to assist institutions of learning or other organizations to conduct studies or research in historical materials deposited; the collection of (admission) fees for the privilege of visiting and viewing Presidential archival depositories; to provide reasonable office space in any Presidential archival depository for the use of any former President of the United States; and the acceptance of gifts or bequests of money or property for the purpose of helping to defray the cost of maintaining, operating, protecting, or improving any Presidential archival depository. All of the proceeds from admissions, gifts, receipts from the

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sale of surplus materials, and income derived from any other source incidental to the operation of such depositories will be required to be deposited in the National Archives trust fund to be held, administered, and expended in the interest of the Presidential depository in connection with which they were received, including the normal maintenance and operating expenses of the respective depositories.

NEED FOR LEGISLATION

During the past 25 years, Presidential libraries have been established as the most desirable way of taking care of the papers and mementos of Presidents of the United States after leaving office. Former President Herbert Hoover placed his papers in the Hoover Library on War, Revolution, and Peace on the campus of the University of Leland Stanford. Former President Franklin D. Roosevelt gave his papers and library to the Federal Government, identified as the Roosevelt Library at Hyde Park, N. Y. The Roosevelt Library was accepted by the Government of the United States as a part of the National Archives system under a joint resolution approved July 18, 1939.

The Federal Property and Administrative Services Act of 1949 was amended by the enactment of the Federal Records Act of 1950 (Public Law 754, approved September 5, 1950), under which the National Archives was transferred to and became an integral part of the General Services Administration, with broad authority vested in the Administrator over the affairs and operation of the National Archives. This act gave the Administrator authority to accept personal papers and historical documents of the President of the United States and his successors for safekeeping in the National Archives system, but did not authorize the acceptance of papers, documents, and buildings of former Presidents, as is contemplated by this resolution. It is the purpose of this resolution to correct this deficiency in the law and to assure that future Presidents may present their papers and records to the United States for safekeeping and use by historians and students of American history.

It is understood that plans are now underway for transferring the papers of former President Harry S. Truman, together with the buildings of the Truman Library, Inc., when completed, to the Government for establishment of a Presidential archival depository at Independence, Mo. Steps are being taken, with President Eisenhower's approval, to place his papers in a library to be constructed near the Eisenhower family home in Abilene, Kans.

Should the pending resolution be adopted, the papers, records, and mementos in these and other Presential libraries, including historical materials and other papers of any official or former official of the Government relating to and contemporary with any President or former President of the United States, may be presented to the Federal Government as a gift for preservation as a part of the National Archives system, subject to restrictions as may be prescribed by the Administrator of General Services. The Administrator would also be authorized to accept the records, buildings, land, and equipment of those libraries, or others proposed to be constructed in a community the President or former Presidents may designate, as well as those of any succeeding Presidents, if and when they desire to donate them to

the Government, the cost of maintaining and operating such depositories to be financed by the Federal Government.

THE HOOVER LIBRARY ON WAR, REVOLUTION, AND PEACE

During consideration of House Joint Resolution 330 in the House of Representatives on July 5, some question arose as to whether or not its provisions were sufficiently broad to permit the inclusion of the Presidential papers of former President Herbert Hoover, on deposit in the Hoover Library on War, Revolution, and Peace on the campus of the University of Leland Stanford. The committee requested an official report from the General Services Administration to clarify this point and to insure that the Presidential papers and historical material of former President Hoover, or of any official or former official of the Government relating to and contemporary with Mr. Hoover's service as President of the United States, would be adequately covered by the provisions of the resolution. The following letter from the General Counsel of the General Services Administration clearly establishes the fact that the papers and related documents of former President Hoover will be qualified for transfer to the Federal Government on the same basis as the papers and libraries of other former Presidents, should a request be submitted to the Federal Government for such custodial transfer:

GENERAL SERVICES ADMINISTRATION,
Washington 25, D. C., July 22, 1955.

Re House Joint Resolution 330; Presidential Libraries

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington 25, D. C.

DEAR SENATOR MCCLELLAN: Your letter of July 12 to the Archivist of the United States inquired whether House Joint Resolution 330 in its present form is sufficiently broad to permit the deposit of former President Hoover's personal papers in a Presidential archival depository.

We are satisfied that the present language is adequate for this purpose.

The proposed amendment of section 507 (e) of the Federal Property and Administrative Services Act of 1949 authorizes acceptance for deposit of the papers and other historical materials of any President or former President of the United States, or of any official or former official of the Government, and other papers relating to and contemporary with any President or former President of the United States, subject to restrictions agreeable to the Administrator as to their use.

Under the new subsection (f) of section 507 the Administrator of General Services is authorized either to accept land, buildings, and equipment offered as a gift for a Presidential archival depository or to enter into agreements with any State, political subdivision, university, etc., to utilize and operate as such depository land, buildings, and equipment made available for the purpose without transfer of title.

We do not have complete information regarding the present status of Mr. Hoover's papers or the relationship between the Hoover Library on War, Revolution, and Peace, the Stanford University War Memorial Library, and Stanford University itself, but so far as we can see there would be no legal impediment under the pending resolution to the establishment of a depository of which Mr. Hoover's papers would form the nucleus either in their present location or elsewhere.

If, as we understand to be the case, the papers are concentrated on two floors of the Stanford University War Memorial Library, we believe the resolution would authorize the making of an agreement with the university, or whatever foundation administers the library, under which the space occupied by the papers, and such additional space as might be necessary for related materials, would be administered as a depository forming a part of the National Archives system.

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It is our impression that Congressman McCormack, in the statement which you quoted, was expressing doubt, not as to the adequacy of the resolution, but rather as to the availability of Mr. Hoover's papers. We had ourselves understood that Mr. Hoover had turned over the papers to the university or a library foundation and probably would not wish to change the present arrangements.

We certainly feel that Mr. Hoover's papers have the greatest research value for scholars interested in the history of our Nation and would by all means wish to accept them for deposit and establish a depository under the resolution if the opportunity is offered.

Sincerely yours,

(Signed) MAXWELL H. ELLIOTT,
General Counsel.

COMMITTEE ACTION

This resolution was introduced in the House of Representatives on June 2, 1955, by Representative John W. McCormack (Massachusetts). It is identical to a companion resolution (S. J. Res. 81) introduced in the Senate by Senator Hennings and cosponsored by Senators Symington, Carlson, and Schoeppel.

A special subcommittee of the House Committee on Government Operations held hearings on House Joint Resolution 330, House Joint Resolution 331, and House Joint Resolution 332, identical proposals. Representatives Edward H. Reese and Joseph W. Martin (both of whom sponsored identical resolutions), the Administrator of General Services, the Archivist of the United States, the Assistant to the Comptroller General, and the director of the Harry S. Truman Library, Inc., supported the resolution. House Joint Resolution 330 was reported favorably in the House on June 20, with perfecting amendments (H. Rept. No. 998), and was approved by the House of Representatives on July 5, 1955.

In view of the House action, this committee reported House Joint Resolution 330 in lieu of the Senate resolution with minor technical amendments to conform to action taken by the Congress involving a further amendment to section 507 of the Federal Property and Administrative Services Act of 1949, which included a new subsection (g), Public Law 148, 84th Congress.

AGENCY COMMENTS

The Director of the Bureau of the Budget in a letter addressed to the chairman of the committee, stated that the Bureau is thoroughly in accord with the purposes of the joint resolution and recommends that it receive the favorable consideration of the committee. The Assistant Administrator of General Services stated that the enactment of the proposed legislation is very favorably recommended. The letters from these agencies follow:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., June 29, 1955.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
Senate Office Building, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This will acknowledge and reply to your letter of June 23, 1955, requesting the views of the Bureau of the Budget upon Senate Joint Resolution 81, to provide for the acceptance and maintenance of Presidential libraries.

The joint resolution would amend section 507 of the Federal Property and Administrative Services Act of 1949, as amended, by authorizing the General Services Administrator, whenever he deems it in the public interest, to accept

papers and other historical materials of any President or former President, or any other official or former official of the Government. Other materials and documents would also be authorized to be accepted and preserved. Further, the Administrator would be authorized to accept any land, buildings, and equipment offered as a gift to the United States for the purpose of creating a Presidential archival depository.

In addition to these two major purposes, the resolution contains the necessary administrative authorizations and provisions to safeguard the interests of the Government, of a President or a former President or other donors.

The Bureau of the Budget is thoroughly in accord with the purposes of the joint resolution and recommends that it receive the favorable consideration of the committee.

Sincerely yours,

(Signed) ROWLAND HUGHES, *Director.*

GENERAL SERVICES ADMINISTRATION,
Washington 25, D. C., July 22, 1955.

Re Senate Joint Resolution 81, To Provide for the Acceptance and Maintenance of Presidential Libraries.

Hon. JOHN L. MCCLELLAN,
Chairman, Committee on Government Operations,
United States Senate, Washington 25, D. C.

DEAR SENATOR MCCLELLAN: Your letter of June 23, 1955, requested the views of GSA with respect to Senate Joint Resolution 81, a proposed joint resolution to provide for the acceptance and maintenance of Presidential libraries, and for other purposes. The proposed joint resolution is identical to three joint resolutions introduced in the House of Representatives in the first session of the 84th Congress: House Joint Resolutions 330, 331, and 332.

GSA is in favor of this proposed legislation, which is intended to provide a means, under our National Archives system, for the preservation by the Government of the papers of any President or former President of the United States or of any official or former official of the Government, together with related historical materials. The proposed resolution would amend the Federal Property and Administrative Services Act of 1949, as amended, to authorize the creation of Presidential archival depositories for such records.

This legislation is not mandatory, but permissive in character. In the best tradition, it provides an opportunity for former Chief Executives and other officials to make disposition of their personal papers and documents subject to such restrictions as may appear to them to be appropriate.

The increase in volume of Presidential and other papers has made it impracticable for ex-Presidents and other officials, or their families, to assume the responsibilities of caring for such material. The establishment of Presidential libraries as depositories of such records is the best method that has been devised for the preservation of such material. The Presidential library offers the advantages of geographical decentralization, and the housing within one establishment of all of the types of material that help to explain the history of a President and his period.

The proposed amendment specifically would authorize the acceptance of land, buildings, and equipment offered as a gift to the United States, and the entering into agreements with States, subdivisions, universities, or other organizations, for the utilization as Presidential archival depositories of land, buildings, and equipment, without transfer of title thereto to the United States.

Under this legislation, the Government will be able to take advantage of the generosity of a President, and of his associates and friends whose interests in a memorial would provide the general public with the expensive physical facilities and equipment for an archival depository at no cost to the Nation's taxpayers.

Senate Joint Resolution 81 will provide a system for the preservation, and use of Presidential, and other official papers, and for the integration with such material of related valuable records created by Federal agencies outside of Washington. It recognizes the vital interest of the Federal Government and of the general public in such records. The vehicle contemplated by the proposed legislation is a logical extension of the present authority and duties of the National Archives, as provided by the Federal Property and Administrative Services Act of 1949, as amended.

The present Federal records centers, in which Government records are now preserved, are appropriate for the economical storage and servicing of records

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held for official use. However, they are not designed for long-time archival purposes, and as the records cease to have immediate use in the active administration of the Government, those having historical value should be retired to depositories appropriate for the permanent safekeeping of such material.

The Presidential depositories authorized to be created by the proposed legislation will provide, in some parts of the country at least, suitable facilities for the proper handling of inactive Federal records of permanent historical value.

The enactment of the proposed legislation is, therefore, very favorably recommended.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Cordially yours,

AL E. SNYDER,
Assistant Administrator.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the joint resolution as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949, AS AMENDED

SEC. 507. * * *

(e) The Administrator [may] *is authorized, whenever he deems it to be in the public interest, to* accept for deposit—

(1) [the personal] The papers and other [personal] historical [documentary] materials of [the present] *any* President *or former President* of the United States, [his successors, heads of executive departments, and such] *or of any* other [officials] *official or former official* of the Government, [as the President may designate, offered for deposit under restrictions respecting their use specified in writing by the prospective depositors: *Provided*, That restrictions so specified on such materials, or any portions thereof, accepted by the Administrator for such deposit shall have force and effect during the lifetime of the depositor or for a period not to exceed twenty-five years, whichever is longer, unless sooner terminated in writing by the depositor or his legal heirs: *And provided further*, That the Archivist determines that the materials accepted for such deposit will have continuing historical or other values;] *and other papers relating to and contemporary with any President or former President of the United States, subject to restrictions agreeable to the Administrator as to their use; and*

(2) documents, including motion-picture films, still pictures, and sound recordings, from private sources that are appropriate for preservation by the Government as evidence of its organization, functions, policies, decisions, procedures, and transactions.

[Title to materials so deposited under this subsection shall pass to and vest in the United States.]

(f) The Administrator is authorized, whenever he deems it to be in the public interest—

(1) To accept, for and in the name of the United States, any land, buildings, and equipment offered as a gift to the United States for the purposes of creating a Presidential archival depository, and to take title to such land, buildings, and equipment on behalf of the United States, and to maintain, operate, and protect them as a Presidential archival depository, and as part of the national archives system; and to enter into agreements, upon such terms and conditions as he deems proper, with any State, political subdivision, university, institution of higher learning, institute, or foundation to utilize as a Presidential archival depository land, buildings, and equipment of such State, subdivision, university, or other organization, to be made available by it without transfer of title to the United States, and to maintain, operate, and protect such depository as a part of the national archives system: Provided, That the Administrator shall submit a report in writing on any such proposed Presidential archival depository to the President of the Senate and the Speaker of the House of Representatives, which report shall include a description of the land, buildings, and equipment offered as a gift or

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to be made available without transfer of title as aforesaid, a statement of the terms of the proposed agreement, if any, a general description of the types of papers, documents, or other historical materials which it is proposed to deposit in the Presidential archival depository so to be created, and of the terms of such proposed deposit, a statement of the additional improvements and equipment, if any, necessary to the satisfactory operation of such depository, together with an estimate of the cost thereof, and an estimate of the annual cost to the United States of maintaining, operating, and protecting such depository: Provided further, That the Administrator shall not take title to any such land, buildings, and equipment or enter into any such agreement, until the expiration of the first period of sixty calendar days of continuous session of the Congress following the date on which such report is transmitted, which sixty-day period shall be computed as follows: Continuity of session shall be considered as broken only by an adjournment sine die, but the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded from the computation;

(2) To deposit in any such Presidential archival depository any papers, documents, or other historical materials accepted under subsection (e), or any Federal records appropriate for preservation therein;

(3) To exercise, with respect to any papers, documents, or other historical materials deposited under this subsection or otherwise in any Presidential archival depository, all the functions and responsibilities otherwise vested in him pertaining to Federal records or other documentary materials in his custody or under his control: Provided, That the Administrator, in negotiating for the deposit of Presidential historical materials, shall take steps to secure to the Government, so far as possible, the right to have continuous and permanent possession of such materials: Provided further, That papers, documents, or other historical materials accepted and deposited under subsection (e) and this subsection shall be held subject to such restrictions respecting their availability and use as may be specified in writing by the donors or depositors, including the restriction that they shall be kept in a Presidential archival depository, and such restrictions shall be respected for so long a period as shall have been specified, or until they are revoked or terminated by the donors or depositors or by persons legally qualified to act on their behalf with respect thereto: Provided further, That subject to such restrictions, the Administrator may dispose by sale, exchange, or otherwise, of any papers, documents, or other materials which the Archivist may determine to have no permanent value or historical interest or to be surplus to the needs of any Presidential archival depository;

(4) To cooperate with and to assist any university, institution of higher learning, institute, foundation, or other organization or qualified individual to further or to conduct study or research in any historical materials deposited in any Presidential archival depository;

(5) To charge and collect reasonable fees for the privilege of visiting and viewing any exhibit rooms or museum space in any such Presidential archival depository;

(6) To provide reasonable office space in any Presidential archival depository for the personal use of any former President of the United States; and

(7) To accept gifts or bequests of money or other property for the purpose of maintaining, operating, protecting, or improving any Presidential archival depository: Provided, That the proceeds of any such gifts or bequests, together with the proceeds from any fees or from any sales of historical materials, copies or reproductions thereof, catalogs, or other items, having to do with any Presidential archival depository, shall be paid into the National Archives Trust Fund provided for in section 5 of the Act of July 9, 1941, to be held, administered, and expended under the provisions of such section for the benefit and in the interest of the Presidential archival depository in connection with which they were received, including such administrative and custodial expenses thereof as the Administrator may determine.

(g) The Administrator is hereby authorized to receive duplicate originals or duly authenticated copies of agreements or compacts entered into, pursuant to the Constitution and laws of the United States, between States now or hereafter admitted to the Union, and to take all necessary actions for their preservation and servicing.

[(f)] (*h*) The Administrator is hereby authorized to make and preserve motion-picture films, still pictures, and sound recordings pertaining to and illustrative of the historical development of the United States Government and its activities, and to make provisions for preparing, editing, titling, scoring, processing, dupli-

cating, reproducing, exhibiting, and releasing for non-profit educational purposes, motion-picture films, still pictures, and sound recordings in his custody.

(i) *When used in this section—*

(1) *The term "Presidential archival depository" means an institution operated by the United States to house and preserve the papers and books of a President or former President of the United States, together with other historical materials belonging to a President or former President of the United States, or related to his papers or to the events of his official or personal life.*

(2) *The term "historical materials" includes books, correspondence, documents, papers, pamphlets, works of art, models, pictures, photographs, plats, maps, films, motion-pictures, sound recordings, and other objects or materials having historical or commemorative value.*

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Calendar No. 1206

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1190

ROCKLAND HARBOR, MAINE

JULY 28, 1955.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 1749]

The Committee on Public Works, to whom was referred the bill (S. 1749) adopting and authorizing the improvement of Rockland Harbor, Maine, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the modification of the project for improvement of Rockland Harbor, Maine, is hereby adopted and authorized substantially in accordance with the recommendations of the Chief of Engineers contained in Senate Document Numbered 82, Eighty-fourth Congress, first session, at an estimated cost of $710,000, and subject to the conditions set forth therein, the work to be prosecuted under the direction of the Secretary of the Army and the supervision of the Chief of Engineers.

SEC. 2. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

PURPOSE OF THE BILL

The purpose of this bill is to authorize modification of the existing project for Rockland Harbor, Maine, in accordance with the provisions of Senate Document No. 82, 84th Congress, at an estimated Federal cost of $710,000.

GENERAL STATEMENT

A survey of Rockland Harbor, Maine, was authorized by a resolution of the Senate Committee on Public Works, adopted September 14, 1954. The report has been transmitted to Congress and is printed as Senate Document No. 82, 84th Congress.

Rockland Harbor is located just inside the southwestern entrance to Penobscot Bay about 75 miles northeast of Portland, Maine.

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The existing project provides for a riprap breakwater extending 4,346 feet southerly from Jameson Point, dredging the inner harbor to depths ranging from 4 to 13 feet at low tide, and removing 2 groups of ledges, 1 to 22 feet and the other to 14 feet. The project has been completed at costs to the United States to June 30, 1954, of $916,000 for new work and $78,000 for maintenance. The estimated annual cost of maintenance is $1,500. Local interests have dredged approach channels to the wharves and completed considerable work in the harbor.

The Corps of Engineers recommends modification of the existing project to provide for construction of a short approach channel and three branch channels each with a turning basin, extending from deep water along about 1.5 miles of the central and northern waterfront to depths of 18 feet below mean low water in the outer portion and 14 feet in the inner portion with widths of 150 feet and 100 feet; and a channel 18 feet deep and 100 feet wide from deep water to an existing marine base in the southern part of the harbor.

The estimated Federal costs of the improvement are $710,000 for construction and $2,900 annually for maintenance in addition to that now required.

The improvements are recommended subject to the provision that local interests will provide without cost to the United States all lands, easements, and rights-of-way necessary for construction of the project and its subsequent maintenance, hold and save the United States free from damages due to the construction and maintenance of the project; provide and maintain at local expense adequate public transfer and terminal facilities open to all on equal terms; and contribute in cash 50 percent of the Federal cost of construction of the 18-foot channel to the marine base, currently estimated at $20,000.

Rockland, Maine, with a population of 9,234 in 1950, is the principal port and commercial center serving a district with a population in excess of 34,000. Rockland is the third largest fishing port in New England. Its principal industrial activity is the handling of fish, shellfish, and fish products, and is a center for fish packing, processing, and canning. It is the mainland terminus for ship lines serving the Penobscot Bay island communities. The waterborne commerce of Rockland Harbor is in excess of 100,000 tons annually.

Improvement of the Rockland Harbor is needed to accommodate larger deep-draft vessels. Some of these vessels cannot use the present harbor due to the shallow depths, while others are delayed waiting for favorable tides. Wharves have been damaged from exposure to storms. Local interests plan to make extensive improvements in the harbor for use of the freight, passenger, and fishing vessels. The benefit-cost ratio of the overall project is 2.27.

DISCUSSION

The committee has given careful consideration to the recommendations of the Corps of Engineers. Rockland Harbor is considered to be one of the important harbors of the Maine coast. The harbor has been extensively developed, largely at the expense of local interests. About 20 wharves are in active use at the present time, extending along 15,000 feet of developed water frontage, with depths ranging from nothing to 15 feet at low tide. One general cargo wharf was

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purchased by the United States during the last war and is now used exclusively by the United States Coast Guard.

The committee realizes that the practice of navigating the harbor only at high tide is a severe economic handicap to the fishing and commercial activities of the port. It believes that the local benefits derived from the channel to the marine base, with a contribution of 50 percent toward the cost of its construction, is equitable.

The committee believes that improvement of the Rockland Harbor is needed for the accommodation of present-day traffic, and recommends enactment of S. 1749.

Comments of the Bureau of the Budget on this bill are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., July 22, 1955.

Hon DENNIS CHAVEZ,
Chairman, Committee on Public Works, United States Senate,
412 Senate Office Building, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to our letter of May 17, 1955, responding to your request for our views on S. 1749, a bill adopting and authorizing the improvement of Rockland Harbor, Maine.

We have completed our review of the Department of the Army's report on the proposed improvements to Rockland Harbor, and our comments thereon are being furnished to the Secretary of the Army. On the basis of our review, we are now able to advise you that the Bureau of the Budget would have no objection to authorization of the recommended improvements.

However, we would still question whether, except in emergencies or rare instances of very large multiple-purpose projects, single project bills should be favorably considered. The Congress has customarily taken up from time to time all project reports pending before it and has enacted a general river and harbor and flood-control bill. It is our belief that such consideration of the relative merits of a number of projects provides a better basis of selection than piecemeal action on individual bills. Furthermore, no commitment can be made at this time as to when any estimate of appropriation would be submitted for construction of the improvement, if authorized by the Congress, since this would be governed by the President's budgetary objectives as determined by the then prevailing fiscal situation.

Sincerely yours,

(Signed) PERCY RAPPAPORT,
Assistant Director.

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Calendar No. 1207

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1191

AUTHORIZING THE SECRETARY OF THE ARMY TO ENTER INTO CONTRACTS TO FURNISH WATER FOR MUNICIPAL WATER SUPPLIES FROM FLOOD-CONTROL AND RIVER AND HARBOR PROJECTS

JULY 28, 1955.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany S. 2374]

The Committee on Public Works, to whom was referred the bill (S. 2374) to authorize the Secretary of the Army to enter into contracts to furnish water for municipal water supplies from flood-control and river and harbor projects, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

On page 1, line 8, strike out the following: "either (1)".

Page 2, line 1, after the word "interest", strike out through "Secretary" on line 4, and insert in lieu thereof the following:

at a rate equal to the current average rate (which rate shall be certified by the Secretary of the Treasury) paid by the United States on its marketable long-term (fifteen years or longer) loans outstanding

Page 2, line 5, strike out the word "him" and insert in lieu thereof "the Secretary".

Page 2, line 6, strike out all after the semicolon through the word "cover" on line 8, and insert in lieu thereof "together with".

Page 2, line 9, strike out after "cost" the remainder of line 9 and through "proper", line 11, and after "payment", on line 11, strike out on line 12, the words "each year".

PURPOSE OF THE BILL

The purpose of the bill is to authorize the Secretary of the Army to enter into contracts to furnish water for municipal water supplies, including water for domestic and industrial uses, in the operation of any flood-control or river and harbor project heretofore or hereafter constructed, with repayment of allocated construction costs to the

United States over a period of not to exceed 40 years from the year water is first delivered, with interest at current average rates on long-term marketable loans of the United States.

GENERAL STATEMENT

Recent drought periods in various sections of the country have made it apparent that the water supplies of the Nation for domestic, industrial, and agricultural use are limited. A careful look to the future reveals the fact that water must be conserved on a major scale and managed wisely to meet needs of future generations. In past years, shortage of water supply was generally thought to be limited to the arid West, but the water situation is now very acute in the Southwest, and is becoming critical in the normally humid East.

In the next 25 years the situation is certain to become much more serious as our population increases; as agricultural uses for water create a greater demand; and as the requirements of an expanding industry continue to skyrocket. New technological demands such as vast quantities of water required for atomic energy plants as atomic power expands, and installation of air conditioning multiplies, all indicate a heavy increase in water demands. These problems far exceed those of providing relatively small resources for municipal water supply.

Considering the period necessary for development of the major sources of water supply, it is apparent that early planning is essential.

EXISTING LAW

Provision of water supplies for domestic and industrial purposes remains essentially the responsibility of local and State governments and of private industry. The Corps of Engineers has authority under existing legislation to provide additional storage capacity in Federal reservoirs built for flood control or to dispose of water provided by such projects which is surplus to the authorized functions.

The Flood Control Act of 1936, as amended by Public Law 208, 75th Congress, provides—

> * * * That the Secretary of War is authorized to receive from States and political subdivisions thereof, such funds as may be contributed by them to be expended in connection with funds appropriated by the United States for any authorized flood-control work whenever such work and expenditure may be considered by the Secretary of War, on recommendation of the Chief of Engineers, as advantageous in the public interest, and the plans for any reservoir project may, in the discretion of the Secretary of War, on recommendation of the Chief of Engineers be modified to provide additional storage capacity for domestic water supply or other conservation storage, on condition that the cost of such increased storage capacity is contributed by local agencies and that the local agencies agree to utilize such additional storage capacity in a manner consistent with Federal uses and purposes. * * *

Section 6 of the Flood Control Act of 1944, Public Law 534, 78th Congress, provides—

> That the Secretary of War is authorized to make contracts with States, municipalities, private concerns, or individuals, at such prices and on such terms as he may deem reasonable, for domestic and industrial uses for surplus water that may be available at any reservoir under the control of the War Department: *Provided*, That no contracts for such water shall adversely affect then existing lawful uses of such water. All moneys received from such contracts shall be deposited in the Treasury of the United States as miscellaneous receipts.

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Section 9 (c) of the Reclamation Project Act of 1939, provides as follows:

> The Secretary is authorized to enter into contracts to furnish water for municipal water supply or miscellaneous purposes: *Provided*, That any such contract either (1) shall require repayment to the United States, over a period of not to exceed forty years from the year in which water is first delivered for the use of the contracting party, with interest not exceeding the rate of 3½ per centum per annum if the Secretary determines an interest charge to be proper, or an appropriate share as determined by the Secretary of that part of the construction costs allocated by him to municipal water supply or other miscellaneous purposes; or (2) shall be for such periods, not to exceed forty years, and at such rates as in the Secretary's judgment will produce revenues at least sufficient to cover an appropriate share of the annual operation and maintenance cost and an appropriate share of such fixed charges as the Secretary deems proper, and shall require the payment of said rates each year in advance of delivery of water for said year.

Under these authorities, water-supply storage is being provided by the Corps of Engineers from 11 reservoirs, and negotiations are being carried forward for provision of water-supply storage in additional projects. Approximately 1,300,000 acre-feet of storage space will be made available for water supply to about 30 municipalities. In addition, many other communities on streams all over the country are enjoying improved water-supply conditions by improvement in low flows resulting in reduced hardness, reduced pumping lifts, and general improvement of the quality of raw water. It is estimated that about 1,400,000 acre-feet of storage in the Ohio River Basin provide low-flow-regulation benefits to over 2,000 miles of streams.

Under the terms of the Reclamation Act, the Bureau of Reclamation has contracted with numerous municipalities and other agencies in the 17 Western States for furnishing water supplies for domestic, industrial, and agricultural uses.

In other arid sections of the country, reservoirs have been operated by the Corps of Engineers and the Bureau of Reclamation in such manner as to prevent complete drying up of the riverbeds downstream which has enabled industries and municipalities to continue operation under extreme drought conditions.

DISCUSSION

The committee considers the matter of water supply to be one of the most important functions of the civil-works program. In planning for river-basin development, the Congress has directed the Corps of Engineers to consider all water uses and problems to meet water-supply needs in the solution of the flood and other problems, and that reports transmitted to Congress should contain recommendations on present and future prospects for water-supply projects.

The committee believes that water supply is of such vital importance to the maintenance of our economy and to the development of many sections of the country that all reservoirs constructed for river control must include storage for water supply to assure appropriate low-flow regulation for streams coursing widespread areas.

It is the opinion of the committee that legislation similar to that contained in the Reclamation Project Act of 1939 should be applicable to the entire Nation, to assure inclusion of water-supply storage in reservoirs, where desired, and where local entities are willing to repay the United States for that part of the construction costs allocated to municipal water supply, with fair interest rates, and an appropriate

share of annual operation and maintenance cost. Likewise, similar provisions should apply to river and harbor projects as to flood-control projects.

It is understood that contracts entered into under the provisions of this bill will be operated in a manner consistent with Federal uses and purposes of the flood-control and navigation projects.

The committee recommends enactment of this legislation. The Department of the Army advised the committee that they are in accord with the objectives of S. 2374. The bill has been amended as suggested by the Bureau of the Budget.

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Calendar No. 1208

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1192

MODIFICATION OF THE PROJECT FOR FLOOD PROTECTION ON THE SAN JOAQUIN RIVER AND TRIBUTARIES, CALIFORNIA

JULY 28, 1955.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 6066]

The Committee on Public Works, to whom was referred the bill (H. R. 6066) authorizing modification of the project for flood protection on the San Joaquin River and tributaries, California, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to modify the authorization for the San Joaquin River flood-control project contained in the Flood Control Act of 1944, to provide that in lieu of furnishing flowage easements along the San Joaquin River upstream of the mouth of the Merced River, local interests may construct levees and channel improvements, as required, to protect such lands against floods.

GENERAL STATEMENT

The plan of improvement for flood control and other purposes on the lower San Joaquin River and tributaries, California, was authorized by section 10 of the Flood Control Act of 1944, in accordance with House Flood Control Committee Document No. 2, 78th Congress.

The act authorized construction of channel enlargement and improvements; bank revetment; and levee extension, setback, relocation, and improvement; including raising, relocating, and extending the existing levee system along the San Joaquin River downstream from the mouth of the Merced River, to increase the effectiveness of such levee system. To insure the continued effectiveness of natural valley storage, it was proposed to reserve, for overflow purposes, those lands

which now flood naturally at about the discharges to which the authorized improvements would regulate the maximum flood of record. One of the requirements of local cooperation of the act was that local interests obtain and furnish to the United States flowage rights to overflow certain lands along the San Joaquin River upstream from the mouth of the Merced River. The estimated cost of obtaining such flowage easements at that time was $800,000.

DISCUSSION

The committee was informed that extensive development has taken place in the overflow area above the mouth of the Merced River since preparation of the project document, and that private landowners have undertaken considerable land reclamation. As a result, there has been a tremendous increase in the cost of the required flowage easements.

The State of California now desires that the area over which flowage easements are to be acquired be reduced, and that reclamation of portions of the overflow area by construction of levees, either by the landowners or the State of California, be permitted.

The committee believes that substitution of the levee plan as provided for in the bill for the authorized flowage-easement plan is satisfactory to both the Federal Government and to local interests.

There are no Federal funds involved. The Department of the Army offers no objection to enactment of this legislation.

The committee is of the opinion that enactment of this legislation will permit local interests to construct levees and other channel improvements in lieu of furnishing flowage easements thereby permitting the reclamation of much valuable land. It believes that the interests of the Government are fully protected by prohibition of increasing the flood hazard in downstream areas, by timing the sequence of construction to development of flood-control storage on tributaries of the San Joaquin River, and by requirements that the construction and maintenance of the desired improvements be undertaken at no cost to the United States.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law proposed by this bill are shown in parallel columns as follows:

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EXISTING LAW

Section 10 of the Flood Control Act of December 22, 1944

SAN JOAQUIN RIVER

The plan of improvement for flood control and other purposes on the Lower San Joaquin River and tributaries, including Tuolumne and Stanislaus Rivers, in accordance with the recommendations of the Chief of Engineers in Flood Control Committee Document Numbered 2, Seventy-eighth Congress, second session, is approved, and there is hereby authorized $8,000,000 for initiation and partial accomplishment of the plan

AMENDMENT UNDER H. R. 6066

That the project for construction of channel improvement works and levee construction and reconstruction on the San Joaquin River and tributary channels, authorized by the Flood Control Act approved December 22, 1944, is hereby modified to provide that in lieu of furnishing flowage easements along the San Joaquin River upstream of the mouth of the Merced River as set forth in the report of the Chief of Engineers, published as Flood Control Committee Document Numbered 2, Seventy-eighth Congress, responsible local interests may construct levees and channel improvements, as required, to protect such lands against floods, subject to approval by the Chief of Engineers, United States Army: *Provided*, That the flood hazard to downstream areas is not materially increased thereby, and that due consideration be given to the timing and sequence of construction of the parts of the project to be accomplished by local interests in proper relation to the development of flood-control storage on the tributaries of the San Joaquin River: *And provided further*, That construction and maintenance of such levees and channel improvements be undertaken at no cost to the United States.

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Calendar No. 1209

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1193

BRIDGE ACROSS THE MISSISSIPPI RIVER AT OR NEAR FRIAR POINT, MISS., AND HELENA, ARK.

JULY 28, 1955.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 6417]

The Committee on Public Works, to whom was referred the bill (H. R. 6417) to revive and reenact the act authorizing the Arkansas-Mississippi Bridge Commission, its public successors or public assigns, to construct, maintain, and operate a bridge across the Mississippi River at or near Friar Point, Miss., and Helena, Ark., approved May 17, 1939, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of this bill is to revive and reenact the act which authorized the Arkansas-Mississippi Bridge Commission, its public successors or public assigns, to construct, maintain, and operate a bridge across the Mississippi River at or near Friar Point, Miss., and Helena, Ark., approved May 17, 1939, as amended June 19, 1948.

The act of May 17, 1939, created the Arkansas-Mississippi Bridge Commission, consisting of six members, and authorized said commission to construct, operate, and maintain a bridge across the Mississippi River at or near Friar Point, Miss., and Helena, Ark., under the terms of the Bridge Act approved March 23, 1906. Under the terms of that act, the bridge was to be commenced within 1 year and completed within 3 years from the date of the passage of the authorizing act. Later acts extended the time of commencing and completing the bridge.

The act approved June 19, 1948, Public Law 701, 80th Congress, increased the membership of the bridge commission from 6 to 18 and extended the times for commencing and completing the construction of the bridge to 1 and 3 years, respectively.

Since the bridge has not been commenced and completed within the required time limitations, the authority granted by the 1948 act has become null and void.

The committee was informed that the States of Arkansas and Mississippi are making arrangements for the construction of the bridge and are well along with the planning therefor. The committee therefore considers it necessary to revive and reenact the authorizing act to continue the original authorization, and recommends enactment of H. R. 6417.

There are no Federal funds involved in this legislation.

The Department of the Army and the Bureau of the Budget have no objection to this legislation, as evidenced by the following report on the bill:

DEPARTMENT OF THE ARMY,
Washington, D. C., April 20, 1955.

Hon. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H. R. 4021, a bill to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Friar Point, Miss., and Helena, Ark.

The Department of the Army has considered the above-mentioned bill. The purpose of the bill is to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Friar Point, Miss., and Helena, Ark., authorized to be built by the Arkansas-Mississippi Bridge Commission by an act of Congress approved May 17, 1939 (53 Stat. 747).

The Department of the Army offers no objection to the enactment of H. R. 4021. However, since the authorization granted by the act referred to above has expired by limitation, it is suggested that the bill be revised to provide for reviving and reenacting the act of May 17, 1939. A draft of revised bill conforming to this recommendation is herewith. Attention is also invited to the fact that the act of May 17, 1939, was amended by an act approved June 19, 1948.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

CHARLES FINUCANE,
Acting Secretary of the Army.

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Calendar No. 1210

84TH CONGRESS, 1st Session } SENATE { REPORT No. 1194

AUTHORIZING THE ADMINISTRATOR OF GENERAL SERVICES TO CONVEY CERTAIN LAND IN NECEDAH, WIS., TO THE VILLAGE OF NECEDAH

JULY 28, 1955.—Ordered to be printed

Mr. MCCARTHY, from the Committee on Government Operations, submitted the following

REPORT

[To accompany H. R. 2889]

The Committee on Government Operations, to whom was referred the bill (H. R. 2889), to provide for the conveyance of certain land in Necedah, Wis., to the village of Necedah, having considered the same, report favorably thereon, with an amendment, and recommend that the bill, as amended, do pass.

The amendment is as follows:

Strike out line 12, page 2. This amendment was found to be necessary due to a printing error.

PURPOSE

The bill would authorize and direct the Administrator of General Services to convey to the village of Necedah, Wis., approximately four-fifths of an acre (37,000 square feet) of unimproved land for the sum of $1, said property having been declared surplus to the needs of the Federal Government in 1953.

BACKGROUND

The property, as described in the bill, was originally acquired by the village of Necedah and conveyed to the United States in 1938 in consideration of payment in the sum of $1. It was first used by the Resettlement Administration who erected some buildings which have since been razed. After that it was administered by the Department of the Interior until 1953 as a wildlife refuge.

The village of Necedah, Wis., desires reconveyance of this property for the express purpose of continuing this area as a park, picnic grounds, and recreational area, and to preclude the possibility of the

property being utilized at some time in the future as a site for a commercial enterprise which may be undesirable.

The bill contains restrictions requiring that the property shall be used for public purposes for a period of not less than 20 years and, in the event of discontinuance for public use, it shall, at the option of the United States as determined by the Secretary of the Interior, revert to the United States. The present market value of the property is estimated at about $500.

AGENCY VIEWS AND RECOMMENDATIONS

The General Services Administration, the Bureau of the Budget, and the General Accounting Office expressed no objection to the bill.

The Bureau of the Budget reported as follows:

FEBRUARY 28, 1955.

Hon. WILLIAM L. DAWSON,
Chairman, Committee on Government Operations,
House of Representatives, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This is in reply to your letter of January 27, 1955, requesting the views of this Office with respect to H. R. 2889, a bill to provide for the conveyance of certain land in Necedah, Wis., to the village of Necedah.

In 1938 the land, about 37,000 square feet, was purchased from the Necedah Bank for $1. It was first used by the Resettlement Administration who erected some buildings which have since been raised. After that it was administered until 1953 by the Department of the Interior as a wildlife refuge. It has since been found surplus to the needs of the Federal Government. The present fair value of the property is estimated at approximately $500. The increase in value is due to the relocation of certain highways.

The Bureau of the Budget would have no objection to the enactment of this bill.

Sincerely yours,

HAROLD L. PEARSON, *Assistant Director.*

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Calendar No. 1211

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1195

PROVIDING FOR ADJUSTMENTS IN THE LANDS OR INTERESTS THEREIN ACQUIRED FOR THE JIM WOODRUFF RESERVOIR, FLA. AND GA., BY THE RECONVEYANCE OF CERTAIN LANDS OR INTERESTS THEREIN TO THE FORMER OWNERS THEREOF

JULY 28, 1955.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 1599]

The Committee on Public Works, to whom was referred the bill (H. R. 1599) to provide for adjustments in the lands or interests therein acquired for the Jim Woodruff Reservoir, Fla. and Ga., by the reconveyance of certain lands or interests therein to the former owners thereof, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H. R. 1599 is to authorize the Secretary of the Army to reconvey certain lands acquired for the Jim Woodruff Dam and Reservoir, in Florida and Georgia, to the former owners thereof, subject to exceptions, restrictions, and reservations necessary in the public interest.

GENERAL STATEMENT

The Department of the Army is acquiring approximately 66,635 acres of land in Florida and Georgia for the Jim Woodruff Dam and Reservoir project on the Apalachicola, Chattahoochee, and Flint Rivers as authorized by the act of Congress approved March 2, 1945 (59 Stat. 17). The acquisition of approximately 24,000 acres has been completed and, in addition, title to approximately 39,000 acres has been vested in the United States through condemnation proceedings, some of which have not progressed to the determination of just compensation and the entry of final judgment.

In order to restrict the landownership requirements of reservoir projects to the minimum area essential to their construction, opera-

tion, and maintenance, the Department of the Army in October 1953 revised its land acquisition policy relating to reservoir projects so as to place greater emphasis on the acquisition of flowage easements instead of fee title, wherever feasible. This policy is being applied in the completion of the land acquisition requirements for the Jim Woodruff Reservoir. In addition, action is underway, in appropriate cases, to amend pending condemnation proceedings as authorized by the act of Congress approved October 21, 1942 (56 Stat. 797), to provide for the taking of such lesser estate as will conform to the revised policy and will be compatible with project requirements. On the other hand, the Secretary of the Army does not have authority to adjust in a similar manner the acreage or title interest in lands acquired through purchase transactions.

DISCUSSION

Enactment of H. R. 1599 would provide the Secretary of the Army with authority to make adjustments, through reconveyances to former owners of lands or interests therein, which the current development status of the project indicates may be feasible. The proper exercise of this authority will serve to bring about the desired adjustments in a manner fair and reasonable, both to the owners of lands being acquired through condemnation proceedings and to owners of lands that have been acquired heretofore through purchase transactions and, at the same time, preserve the objectives of the Federal Property and Administrative Services Act of 1949, as amended, and the policies and procedures employed in its administration.

The committee was informed that there is an estimated 8,400 acres of land held in fee simple which may be subject to reconveyance under the provisions of H. R. 1599, subject, however, to the reservation of flowage easements and such other restrictions, exceptions, and conditions as may be necessary in the public interest. The bill provides for the termination of the act 3 years after the date of its enactment.

The report of the Secretary of the Army, indicating approval of the legislation follows:

DEPARTMENT OF THE ARMY,
Washington 25, D. C., March 18, 1955.

HON. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H. R. 1599, 84th Congress, a bill to provide for adjustments in the lands or interests therein acquired for the Jim Woodruff Reservoir, Ga., by the reconveyance of certain lands or interests therein to the former owners thereof.

The Department of the Army is not opposed to the enactment of this bill, but recommends that it be amended in the manner set forth in this report.

The purpose of the bill is indicated in its title.

The Department of the Army is acquiring approximately 66,635 acres of land in Georgia and Florida for the Jim Woodruff Dam and Reservoir project on the Apalachicola, Chattahoochee, and Flint Rivers as authorized by the act of Congress approved March 2, 1945 (59 Stat. 17). The acquisition of approximately 24,000 acres has been completed and, in addition, title to approximately 39,000 acres has been vested in the United States through condemnation proceedings, some of which have not progressed to the determination of just compensation and the entry of final judgment.

In order to restrict the landownership requirements of reservoir projects to the minimum area essential to their construction, operation, and maintenance, the

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Department of the Army has revised its land acquisition policy so as to place greater emphasis on the acquisition of flowage easements instead of fee title, wherever feasible. This policy is being applied in the completion of the land acquisition requirements for the Jim Woodruff Reservoir. In addition, action is underway, in appropriate cases, to amend pending condemnation proceedings as authorized by the act of Congress approved October 21, 1942 (56 Stat. 797) to provide for the taking of such lesser estate as will conform to the revised policy and will be compatible with project requirements. On the other hand, the Secretary of the Army does not have authority to adjust in a similar manner the acreage or title interest in lands acquired through purchase transactions.

Enactment of H. R. 1599 would provide the Secretary of the Army with authority to make adjustments, through reconveyances to former owners of lands or interests therein, which the current development status of the project indicates may be feasible. The proper exercise of this authority will serve to bring about the desired adjustments in a manner fair and reasonable, both to the owners of lands being acquired through condemnation proceedings and to owners of lands that have been acquired heretofore through purchase transactions and, at the same time, preserve the objectives of the Federal Property and Administrative Services Act of 1949, as amended, and the policies and procedures employed in its administration.

It is recommended that the following minor amendments be adopted:

(1) That the word "reconvey" be substituted for the word "sell" in line 8, page 1;

(2) That the word "reconveyance" be substituted for the word "sale" in line 5, page 2;

(3) That the word "reconveyances" be substituted for the word "sales" in line 24, page 3;

(4) That the title and line 5, page 1 be amended to include "Florida with Georgia" appearing therein;

(5) That the following sentence be added at the end of line 2, page 3: "In addition, the cost of any surveys necessary as an incident of such reconveyance shall be borne by the grantee."

The fiscal effect of this bill cannot be readily ascertained at this time.

The Bureau of the Budget advises that while there is no objection to the submission of this report, it recommends that section 3 of the bill be revised to read as follows:

"SEC. 3. Any proceeds from sales made under this Act shall be covered into the Treasury of the United States as miscellaneous receipts."

Sincerely yours,

ROBERT T. STEVENS, *Secretary of the Army.*

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Calendar No. 1212

84TH CONGRESS, 1st Session } SENATE { REPORT No. 1196

PROVIDING FOR ADJUSTMENTS IN THE LANDS OR INTERESTS THEREIN ACQUIRED FOR THE DEMOPOLIS LOCK AND DAM, ALABAMA, BY THE RECONVEYANCE OF CERTAIN LANDS OR INTERESTS THEREIN TO THE FORMER OWNERS THEREOF

JULY 28, 1955.—Ordered to be printed

Mr. CHAVEZ, from the Committee on Public Works, submitted the following

REPORT

[To accompany H. R. 3235]

The Committee on Public Works, to whom was referred the bill (H. R. 3235) to provide for adjustments in the lands or interests therein acquired for the Demopolis lock and dam, Alabama, by the reconveyance of certain lands or interests therein to the former owners thereof, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to authorize the Secretary of the Army to reconvey certain lands acquired for the Demopolis lock and dam, Alabama, to the former owners thereof, subject to exceptions, restrictions, and reservations necessary in the public interest.

GENERAL STATEMENT

The Demopolis lock and dam project, on the Tombigbee River in Alabama, embraces an area of 91,000 acres of land in Marengo, Greene, and Sumter Counties. Project plans provided for the acquisition of flowage easements over approximately 72,000 acres of the area. Of the remaining 19,000 acres, fee-simple title to 16,113 acres, including the dam site and other construction areas, has been acquired and title to 2,887 acres is being acquired subject to the reservation by the landowners of mineral interests, including oil and gas. In acquiring the 19,000 acres, approximately 13,000 acres have been acquired by purchase transactions and approximately 6,000 acres are being acquired through condemnation proceedings, some of

which have not progressed to the determination of just compensation and the entry of final judgment.

In order to restrict the landownership requirements of reservoir projects to the minimum area essential to their construction, operation, and maintenance, the Department of the Army, in October 1953, revised its land-acquisition policy relating to reservoir projects so as to place greater emphasis on the acquisition of flowage easements instead of fee title, wherever feasible. This policy is being applied in fulfilling the land-acquisition requirements for the Demopolis lock and dam project. In addition, action has been taken, in appropriate cases, to amend pending condemnation proceedings as authorized by the act of Congress approved October 21, 1942 (56 Stat. 797), to provide for the taking of such lesser estate as will conform to the revised policy and will be compatible with project requirements. On the other hand, the Secretary of the Army does not have authority to adjust in a similar manner the acreage or title interest in lands acquired through purchase transactions.

DISCUSSION

Enactment of H. R. 3235 would provide the Secretary of the Army with authority to make adjustments, through reconveyance to former owners of lands or interests therein, which the current development status of the project indicates may be feasible. The proper exercise of this authority will serve to bring about the desired adjustments in a manner fair and reasonable, both to the owners of lands being acquired through condemnation proceedings and to owners of lands that have been acquired heretofore through purchase transactions and at the same time preserve the objectives of the Federal Property and Administrative Services Act of 1949, as amended, and the policies and procedures employed in its administration.

The Department of the Army is not opposed to the enactment of this bill. The committee was informed that there is an estimated 6,000 acres of land held in fee simple which may be subject to reconveyance under the provisions of this bill, subject, however, to the reservation of flowage easements and such other restrictions, exceptions, and conditions as may be necessary in the public interest. The bill provides for the termination of the act 3 years after the date of its enactment.

The report of the Department of the Army follows:

DEPARTMENT OF THE ARMY,
Washington, D. C., April 5, 1955.

Hon. CHARLES A. BUCKLEY,
Chairman, Committee on Public Works,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H. R. 3235 and H. R. 3261, 84th Congress, identical bills, to provide for adjustments in the lands or interests therein acquired for the Demopolis lock and dam, Alabama, by the reconveyance of certain lands or interests therein to the former owners thereof.

The Department of the Army is not opposed to the above-mentioned bills.

The purpose of the bills is indicated in their title.

The Demopolis lock and dam project on the Tombigbee River in Alabama embraces an area of 91,000 acres of land in Marengo, Greene, and Sumter Counties. Project plans provided for the acquisition of flowage easements over approximately 80 percent of the area. However, fee-simple title to 16,113 acres, including the

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dam site and other construction areas, has been acquired. Title to approximately 2,887 acres is being acquired subject to the reservation by the landowners of the mineral interests, including oil and gas, provided, however, that the mineral interests so reserved shall be subordinated to the right of the Government to flood the premises and to restrict the exploitation of the mineral interests reserved in such manner as is determined to be necessary to fully protect the operation and management of the reservoir project. Approximately 13,000 acres of the above-mentioned 19,000 acres to be acquired has been purchased and approximately 6,000 acres are being acquired through condemnation proceedings, some of which have not progressed to the determination of just compensation and the entry of final judgment.

In order to restrict the landownership requirements of reservoir projects to the minimum area essential to their construction, operation, and maintenance, the Department of the Army has revised its land-acquisition policy so as to place greater emphasis on the acquisition of flowage easements instead of fee title, wherever feasible. This policy is being applied in fulfilling the land-acquisition requirements for the Demopolis lock and dam project. In addition, action has been taken, in appropriate cases, to amend pending condemnation proceedings as authorized by the act of Congress approved October 21, 1942 (56 Stat. 797) to provide for the taking of such lesser estate as will conform to the revised policy and will be compatible with project requirements. On the other hand, the Secretary of the Army does not have authority to adjust in a similar manner the acreage or title interest in lands acquired through purchase transactions.

Enactment of H. R. 3235 or H. R. 3261 would provide the Secretary of the Army with authority to make adjustments, through reconveyance to former owners of lands or interests therein, which the current development status of the project indicates may be feasible. The proper exercise of this authority will serve to bring about the desired adjustments in a manner fair and reasonable, both to the owners of lands being acquired through condemnation proceedings and to owners of lands that have been acquired heretofore through purchase transactions and at the same time preserve the objectives of the Federal Property and Administrative Services Act of 1949, as amended, and the policies and procedures employed in its administration.

The fiscal effect of these bills cannot be readily ascertained at this time.

The Bureau of the Budget advises that while there is no objection to the submission of this report, it recommends that section 3 of the bill be revised to read as follows:

"SEC. 3. Any proceeds from sales made under this Act shall be covered into the Treasury of the United States as miscellaneous receipts."

Sincerely yours,

CHARLES FINUCANE,
Acting Secretary of the Army.

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84TH CONGRESS } SENATE { REPORT
1st Session } { No. 1197

PROPOSED AGREEMENTS FOR COOPERATION BETWEEN THE UNITED STATES AND ARGENTINA, CHILE, CHINA, DENMARK, GREECE, ISRAEL, ITALY, JAPAN, KOREA, LEBANON, NETHERLANDS, PAKISTAN, PERU, PHILIPPINES, PORTUGAL, SPAIN, SWEDEN, SWITZERLAND, URUGUAY, AND VENEZUELA

JULY 28, 1955.—Ordered to be printed

Mr. PASTORE, from the Joint Committee on Atomic Energy, submitted the following

REPORT

The President has approved and authorized the execution of 20 agreements for cooperation patterned on the agreements with Turkey, Brazil, and Colombia as described in Senate Report No. 572. These agreements have been deposited with the Joint Committee on Atomic Energy. The dates of approval and depositing are set forth in appendix I.

The Subcommittee on Agreements for Cooperation to which the 20 proposed agreements for cooperation were referred heard witnesses from the Department of State and the Atomic Energy Commission on the proposed agreements. The Subcommittee on Agreements for Cooperation unanimously concluded and reported to the Joint Committee that the proposed agreements are in conformance with the letter and spirit of the Atomic Energy Act of 1954.

The Joint Committee, on July 28, held a meeting, and by unanimous vote adopted the report and conclusions of the Subcommittee on Agreements for Cooperation.

This report is made by the Joint Committee under the provisions of section 202 of the Atomic Energy Act of 1954.

HEARING

Those who appeared at the executive hearing held by the Subcommittee on Agreements for Cooperation on July 28, 1955, were:

For the Department of State:

Henry F. Holland, Assistant Secretary for Inter-American Affairs

George Spiegel, Office of the Deputy Special Assistant to the Secretary of State for Atomic Energy
James F. O'Connor, Jr., South American Affairs Office
For the Atomic Energy Commission:
Commissioner Willard F. Libby
Edward R. Gardner
William Mitchell
William Wampler

BACKGROUND

In his message to Congress on February 17, 1954, President Eisenhower requested that the Atomic Energy Act of 1946 be amended in several respects. He said in part:

> For the purpose of strengthening the defense and economy of the United States and of the free world, I recommend that the Congress approve a number of amendments to the Atomic Energy Act of 1946. These amendments would accomplish this purpose, with proper security safeguards, through the following means:
>
> First, widened cooperation with our allies in certain atomic energy matters;
>
> Second, improved procedures for the control and dissemination of atomic energy information; and
>
> Third, encouragement of broadened participation in the development of peacetime uses of atomic energy in the United States.

In his message he later stated:

> In respect to peaceful applications of atomic energy, these can be developed more rapidly and their benefits more widely realized through broadened cooperation with friendly nations * * *.

In keeping with this Presidential recommendation, the basic revision of the organic atomic energy law passed by the 83d Congress permits, under carefully stated conditions, such cooperation with other free nations.

The report on the Atomic Energy Act of 1954 describes the effect of the revision enabling wider cooperation with friendly nations on the peacetime uses of atomic energy in these words:

> The bill authorizes the negotiations of bilateral agreements for cooperation with foreign nations in the areas of peacetime uses of atomic energy under carefully stipulated safeguards. The Commission may transfer and exchange restricted data dealing with industrial nonmilitary uses of atomic energy. Also under explicitly stated safeguards, the Commission may transfer to another nation, party to an "agreement for cooperation," atomic materials in quantities needed for the development or utilization of atomic energy for nonmilitary and for research purposes.

THE ATOMIC ENERGY ACT OF 1954 AND THE PROPOSED AGREEMENTS

On August 30, 1954, the Atomic Energy Act of 1954 was signed by the President. The sections of this law concerning bilateral agreements for cooperation with other nations which involve no communication of restricted data but do involve the distribution of special nuclear material are as follows:

> SECTION 54. FOREIGN DISTRIBUTION OF SPECIAL NUCLEAR MATERIAL.—The Commission is authorized to cooperate with any nation by distributing special nuclear material and to distribute such special nuclear material, pursuant to the terms of an agreement for cooperation to which such nation is a party and which is made in accordance with section 123.
>
> SECTION 123. COOPERATION WITH OTHER NATIONS.—No cooperation with any nation or regional defense organization pursuant to sections 54, 57, 64, 82, 103, 104, or 144 shall be undertaken until—

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(a) the Commission or, in the case of those agreements for cooperation arranged pursuant to subsection 144 (b), the Department of Defense has submitted to the President the proposed agreement for cooperation, together with its recommendation thereon, which proposed agreement shall include (1) the terms, conditions, duration, nature, and scope of the cooperation; (2) a guaranty by the cooperating party that security safeguards and standards as set forth in the agreement for cooperation will be maintained; (3) a guaranty by the cooperating party that any material to be transferred pursuant to such agreement will not be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose; and (4) a guaranty by the cooperating party that any material or any Restricted Data to be transferred pursuant to the agreement for cooperation will not be transferred to unauthorized persons or beyond the jurisdiction of the cooperating party, except as specified in the agreement for cooperation;

(b) the President has approved and authorized the execution of the proposed agreement for cooperation, and has made a determination in writing that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security; and

(c) the proposed agreement for cooperation, together with the approval and the determination of the President, has been submitted to the Joint Committee and a period of thirty days has elapsed while Congress is in session (in computing such thirty days, there shall be excluded the days on which either House is not in session because of an adjournment of more than three days).

Section 123 of the act requires in regard to agreements for cooperation pursuant to section 54 that the proposed agreement be submitted to the President, together with the recommendations of the Atomic Energy Commission. The agreement must include the terms, conditions, duration, nature, and scope of the cooperation; a guaranty by the cooperating party that security safeguards and standards as set forth in the agreement for cooperation will be maintained; a guaranty by the cooperating party that any material to be transferred pursuant to such agreement will not be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose; and a guaranty by the cooperating party that any material or any restricted data to be transferred pursuant to the agreement for cooperation will not be transferred to unauthorized persons, or beyond the jurisdiction of the cooperating party, except as specified in the agreement for cooperation. Section 123 also requires the President to approve and authorize execution of a proposed agreement and to make a determination in writing that the performance of the agreement will promote and will not constitute an unreasonable risk to the common defense and security. The term of each agreement will be for 5 years, except that the Turkish agreement will be for 10 years.

Finally, section 123 requires that the proposed agreement, together with the determination and approval of the President, be submitted to the Joint Committee and that a period of 30 days elapse while Congress is in session before the agreement may become effective.

The present agreements meet all statutory tests of section 123. Further, they were negotiated, recommended, and approved by the Atomic Energy Commission and the President in accordance with the terms of section 123.

The only agreement which is different from the research agreements previously submitted for Turkey, Colombia, and Brazil is that of Switzerland. Under this agreement the research reactor being exhibited at the National Conference on the Peaceful Uses of Atomic

Energy at Geneva, is to be sold to the Swiss Commission for Nuclear Research for $180,000.

It is the announced policy of the President of the United States that this Government will pay half the price of any reactor furnished to any other government under this type of agreement for cooperation for research reactors. Funds for these payments have been authorized in Public Law 144, 84th Congress, 1st session, and are included in the appropriation legislation H. R. 7278, which is currently in conference. Because of the historic relations of this country with the Philippines, the entire cost of the Philippine reactor will be borne by this country.

There follow as appendix I, the dates of approval and depositing; and, including the respective statutory correspondence, as appendix II, the agreement with Argentina; as appendix III, the agreement with Chile; as appendix IV, the agreement with China; as appendix V, the agreement with Denmark; as appendix VI, the agreement with Greece; as appendix VII, the agreement with Israel; as appendix VIII, the agreement with Italy; as appendix IX, the agreement with Japan; as appendix X, the agreement with Korea; as appendix XI, the agreement with Lebanon; as appendix XII, the agreement with Netherlands; as appendix XIII, the agreement with Pakistan; as appendix XIV, the agreement with Peru; as appendix XV, the agreement with the Philippines; as appendix XVI, the agreement with Portugal; as appendix XVII, the agreement with Spain; as appendix XVIII, the agreement with Sweden; as appendix XIX, the agreement with Switzerland; as appendix XX, the agreement with Uruguay; and as appendix XXI, the agreement with Venezuela.

JOINT COMMITTEE ON ATOMIC ENERGY:

CLINTON P. ANDERSON, *Chairman.*
CARL T. DURHAM, *Vice Chairman.*
RICHARD B. RUSSELL.
JOHN O. PASTORE.
ALBERT GORE.
HENRY M. JACKSON.
BOURKE B. HICKENLOOPER.
EUGENE D. MILLIKIN.
WILLIAM F. KNOWLAND.
JOHN W. BRICKER.
CHET HOLIFIELD.
MELVIN PRICE.
PAUL J. KILDAY.
JOHN J. DEMPSEY.
STERLING COLE.
CARL HINSHAW.
JAMES E. VAN ZANDT.
JAMES T. PATTERSON.

SUBCOMMITTEE ON AGREEMENTS FOR COOPERATION:

JOHN O. PASTORE, *Chairman.*
CLINTON P. ANDERSON.
BOURKE B. HICKENLOOPER.
JOHN W. BRICKER.
CARL T. DURHAM.
MELVIN PRICE.
STERLING COLE.

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APPENDIXES

APPENDIX I

Country	Date of approval	Date of deposit	Country	Date of approval	Date of deposit
Argentina	June 9	June 17	Netherlands	June 16	June 17
Chile	June 22	June 27	Pakistan	June 25	June 27
China	June 15	June 17	Peru	July 7	July 7
Denmark	June 14	Do.	Philippines	June 16	June 17
Greece	June 25	June 27	Portugal	...do...	Do.
Israel	June 7	June 10	Spain	June 9	Do.
Italy	June 9	June 17	Sweden	July 7	July 7
Japan	June 25	June 27	Switzerland	June 14	June 17
Korea	July 7	July 7	Uruguay	July 7	July 7
Lebanon	June 2	June 10	Venezuela	June 16	June 17

APPENDIX II

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955

HON. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of Argentina;

2. A letter dated June 8, 1955, from the Commission to the President recommending his approval of the proposed agreement;

3. A letter dated June 9, 1955, from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Argentina on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Argentina, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Argentina. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Argentina up to 6 kilograms of contained U-235 in uranium enriched up to a maximum of 20 percent U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Argentina or while fuel elements are in transit. The amount of special nuclear material which would be made available to Argentina under this agreement would not be important from the military point of view and the limitation expressed will restrict Argentina in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Argentina to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Argentina.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Argentine Republic desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Argentine Republic desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Argentine Republic in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Argentine Republic uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Argentine Republic, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Argentine Republic uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Argentine Republic may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Argentine Republic shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Argentine Republic to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U–235 transferred by the Commission and in the custody of the Government of the Argentine Republic shall not at any time be in excess of six (6) kilograms of contained U–235 in

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uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Argentina or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Argentine Republic or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Argentina. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Argentina may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Argentine Republic and such persons under its jurisdiction as are authorized by the Government of the Argentine Republic to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Argentine Republic.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Argentine Republic or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Argentine Republic agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Argentine Republic agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Argentine Republic or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Argentine Republic decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Argentine Republic agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Argentine Republic will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Argentine Republic guaranties that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Argentine Republic or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Argentine Republic except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of the Argentine Republic shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Argentine Republic, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Argentina.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

HENRY F. HOLLAND,
HFH 6/7/55
Assistant Secretary of State for Inter-American Affairs.

LEWIS L. STRAUSS,
L. S. 6/7/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Argentine Republic:

HIPOLITO J. PAZ,
——— 7-5-1955

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JUNE 8, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of the Argentine Republic and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Argentina, in accordance with the policy which you have established. The Government of the Argentine Republic has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Argentina, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Argentina. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Argentina up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Argentina will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Argentina.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

JUNE 9, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 8, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of Argentina and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of Argentina desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of Argentina special nuclear material for use as reactor fuel.

Pursuant to the provisions of Section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of Argentina concerning the civil uses of atomic energy.

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States

Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Argentina, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Argentina.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX III

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 27, 1955.

HON. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there is submitted with this letter:

1. A proposed agreement for cooperation with the Government of the Republic of Chile;

2. A letter dated June 22, 1955, from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter dated June 25, 1955, from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Chile on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Chile, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Chile. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Chile up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Chile or while fuel elements are in transit. The amount of special nuclear material which would be made available to Chile under this agreement would not be important from the military point of view and the limitation expressed will restrict Chile in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Chile to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by Section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Chile.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF CHILE

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Republic of Chile desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

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WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Republic of Chile desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Republic of Chile in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction, and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Republic of Chile uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Republic of Chile, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Republic of Chile uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Republic of Chile may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Republic of Chile shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Republic of Chile to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of the Republic of Chile shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in the Republic of Chile or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Republic of Chile or authorized persons under its jurisdiction

such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in the Republic of Chile. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or the Republic of Chile may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Republic of Chile and such persons under its jurisdiction as are authorized by the Government of the Republic of Chile to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Republic of Chile

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Republic of Chile or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Republic of Chile agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Republic of Chile agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Republic of Chile or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Republic of Chile decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Republic of Chile agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Republic of Chile will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTEES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Republic of Chile guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material including equipment and devices, transferred to the Government of the Republic of Chile or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of Chile except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

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ARTICLE VIII

This Agreement shall enter into force on _____ and remain in force until _____, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of the Republic of Chile shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Republic of Chile, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in the Republic of Chile.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or ts duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts .

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT _____ in duplicate this _____ day of _____, 1955.

For the Government of the United States of America:
HENRY F. HOLLAND,
HFH 6/20/55
Assistant Secretary of State for Inter-American Affairs.
LEWIS L. STRAUSS,
LLS 6/16/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Republic of Chile:
HORACIO SUAREZ,
HS 6/20/55
Charge d'Affaires ad interim of the Embassy of Chile.

The PRESIDENT, JUNE 22, 1955.
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of the Republic of Chile and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the

development of the peaceful uses of atomic energy in Chile, in accordance with the policy which you have established. The Government of the Republic of Chile has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Chile, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Chile. No Restricted Data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Chile up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Chile will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Chile.

Respectfully,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 25, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 22, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of Chile and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of Chile desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of Chile special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of Chile concerning the civil uses of atomic energy.

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Chile, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Chile.

Sincerely,

DWIGHT D. EISENHOWER.

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APPENDIX IV

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Republic of China;

2. A letter from the Commission to the President recommending his approval of the proposed agreement;

3. A letter from the President to the Commission approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and the Republic of China on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. The Republic of China, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to the Republic of China. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to the Republic of China up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent, U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in the Republic of China or while fuel elements are in transit. The amount of special nuclear material which would be made available to the Republic of China under this agreement would not be important from the military point of view and the limitation expressed will restrict the Republic of China in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by the Republic of China to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in the Republic of China.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF CHINA

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Republic of China desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Republic of China desires to pursue a research and development program looking toward the realization of the peaceful and

humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Republic of China in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Republic of China uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Republic of China, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Republic of China uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Republic of China may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Republic of China shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Republic of China to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of the Republic of China shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in China or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Article VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Republic of China or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in China. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or China may deal directly with private individuals and private organizations in the other country. Accordingly,

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with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Republic of China and such persons under its jurisdiction as are authorized by the Government of the Republic of China to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Republic of China.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Republic of China or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Republic of China agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Republic of China agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Republic of China or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Republic of China decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Republic of China agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Republic of China will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Republic of China guaranties that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Republic of China or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of China except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of the Republic of China shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Republic of China, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power atomic energy in China.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ---- day of ----------, 1955.

For the Government of the United States of America:

WILLIAM J. SEBALD,
WJS 6/14/55
Acting Assistant Secretary of State for Far Eastern Affairs.

LEWIS L. STRAUSS,
LS 6/14/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Republic of China:

V. K. Koo,
V. K. W. Koo
Chinese Ambassador.

JUNE 14, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of the Republic of China and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in the Republic of China, in accordance with the policy which you have established. The Government of the Republic of China has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Under the agreement the Republic of China, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to the Republic of China. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to the Republic of

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China up to 6 kilograms of contained U-235 in uranium enriched up to a maximum of 20 percent U-235

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and the Republic of China will lead to further discussions and agreements relating to the peaceful uses of atomic energy in the Republic of China.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 15, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 14, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of China and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of China desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of China special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of China concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Nationalist China, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX V

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Kingdom of Denmark;

2. A letter from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Denmark on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Denmark, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Denmark. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Denmark up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors, while replaced fuel elements are radioactively cooling in Denmark or while fuel elements are in transit. The amount of special nuclear material which would be made available to Denmark under this agreement would not be important from the military point of view and the limitation expressed will restrict Denmark in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Denmark to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Denmark.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE KINGDOM OF DENMARK

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Kingdom of Denmark desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production or research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Kingdom of Denmark desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Kingdom of Denmark in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

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B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Kingdom of Denmark uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Kingdom of Denmark in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Kingdom of Denmark uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Kingdom of Denmark may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Kingdom of Denmark shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Kingdom of Denmark to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U–235 transferred by the Commission and in the custody of the Government of the Kingdom of Denmark shall not at any time be in excess of six (6) kilograms of contained U–235 in uranium enriched up to a maximum of twenty percent (20%) U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in the Kingdom of Denmark or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U–235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U–235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Article VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Kingdom of Denmark or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in the Kingdom of Denmark. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or the Kingdom of Denmark may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Kingdom of Denmark and such persons under its jurisdiction as are authorized by the Government of the Kingdom of Denmark to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Kingdom of Denmark.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Kingdom of Denmark or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Kingdom of Denmark agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Commission shall be used solely for the purposes agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Kingdom of Denmark agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Kingdom of Denmark or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Kingdom of Denmark decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Kingdom of Denmark agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Kingdom of Denmark will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Kingdom of Denmark guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Kingdom of Denmark or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Kingdom of Denmark except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- (a calendar date) and remain in force until ---------- (a date five years later), inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or any extension thereof the Government of the Kingdom of Denmark shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Kingdom of Denmark, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in the Kingdom of Denmark.

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ARTICLE X

For purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

LIVINGSTON T. MERCHANT,
LTM June 10, 1955
Assistant Secretary of State for European Affairs.

LEWIS L. STRAUSS,
L. L. S. 6/10/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Kingdom of Denmark:

HENRIK DE KAUFFMANN,
HdeK June 10th 1955
Ambassador of Denmark.

JUNE 10, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of the Kingdom of Denmark and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Denmark, in accordance with the policy which you have established. The Government of the Kingdom of Denmark has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Denmark, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Denmark. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Denmark up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Denmark will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Denmark.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 14, 1955.

Hon. L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 10, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Kingdom of Denmark and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Kingdom of Denmark desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Kingdom of Denmark special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Kingdom of Denmark concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Denmark, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Denmark.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX VI

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 27, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Kingdom of Greece;

2. A letter from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Greece on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Greece, if it is desired to do so, would be able to engage

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United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Greece. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Greece up to 6 kilograms of contained U-235 in uranium enriched up to a maximum of 20 percent U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Greece or while fuel elements are in transit. The amount of special nuclear material which would be made available to Greece under this agreement would not be important from the military point of view and the limitation expressed will restrict Greece in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Greece to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Greece.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE KINGDOM OF GREECE

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Kingdom of Greece desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Kingdom of Greece desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Kingdom of Greece in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Kingdon of Greece uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Kingdom of Greece, in consultation with the Commission, decides to construct and as required in agreed

experiments related thereto. Also, the Commission will lease to the Government of the Kingdom of Greece uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Kingdom of Greece may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Kingdom of Greece shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Kingdom of Greece to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of the Kingdom of Greece shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Greece or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Kingdom of Greece or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Greece. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Greece may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Kingdom of Greece and such persons under its jurisdiction as are authorized by the Government of the Kingdom of Greece to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Kingdom of Greece.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Kingdom of Greece or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Kingdom of Greece agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purposes agreed in accord ance with this Agreement and to assure the safekeeping of this material.

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B. The Government of the Kingdom of Greece agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Kingdom of Greece or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Kingdom of Greece decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Kingdom of Greece agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Kingdom of Greece will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII.—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Kingdom of Greece guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Kingdom of Greece or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Kingdom of Greece except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or any extension thereof the Government of the Kingdom of Greece shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Kingdom of Greece, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Greece.

ARTICLE X

For purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

JOHN D. JERNEGAN,
JDJ 6/22/55
Deputy Assistant Secretary for Near Eastern, South Asian, and African Affairs.
LEWIS L. STRAUSS,
LLS 6/14/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Kingdom of Greece:

PHEDON ANNINO CAVALIERATO,
PAC 6/22/55
Counselor

JUNE 22, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the Kingdom of Greece and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Greece, in accordance with the policy which you have established. The Government of the Kingdom of Greece has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Under the agreement the Kingdom of Greece, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Greece. No restricted data would be communicated under this agreement The Atomic Energy Commission, however, would lease to Greece up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the Kingdom of Greece and the United States will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Greece.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 25, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 22, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Kingdom of Greece and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Kingdom of Greece

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desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Kingdom of Greece special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Kingdom of Greece concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Greece, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Greece.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX VII

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 10, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there is submitted with this letter:

1. A proposed agreement for cooperation with the Government of Israel;

2. A letter dated June 6, 1955, from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter dated June 7, 1955, from the President to the Commission approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Israel on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Israel, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Israel. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Israel up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Israel or while fuel elements are in transit. The amount of special nuclear material which would be made available to Israel under this agreement would not be important from the military point of view and the limitation expressed will

restrict Israel in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Israel to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Israel.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF ISRAEL

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of Israel desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of Israel desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of Israel in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of Israel uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of Israel, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of Israel uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of Israel may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of Israel shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of Israel to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U–235 transferred by the Commission and in the custody of the Government of Israel shall not at any

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time be in excess of six (6) kilograms of contained U–235 in uranium enriched up to a maximum of twenty percent (20%) U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Israel or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U–235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U–235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of Israel or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Israel. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Israel may deal directly with private individuals and private organizations in the other country. Accordingly with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of Israel and such persons under its jurisdiction as are authorized by the Government of Israel to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of Israel.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of Israel or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of Israel agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of Israel agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of Israel or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of Israel decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of Israel agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of Israel will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used

JUNE 6, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of Israel and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Israel, in accordance with the policy which you have established. The Government of Israel has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Israel, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Israel. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Israel up to 6 kilograms of contained U-235 in uranium enriched up to a maximum of 20 percent U-235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Israel will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Israel.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 7, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 6, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of Israel and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of Israel desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Government of Israel special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of Israel concerning the civil uses of atomic energy.

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agree-

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of Israel guaranties that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of Israel or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Israel except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of Israel shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of Israel, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Israel.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

GEORGE V. ALLEN,
Assistant Secretary of State for Near Eastern, South Asian and African Affairs.

LEWIS L. STRAUSS,
Chairman, U. S. Atomic Energy Commission.

For the Government of Israel:

ABBA EBAN,
Ambassador of Israel.

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WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Italian Republic desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Italian Republic in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Italian Republic uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Italian Republic, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Italian Republic uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Italian Republic may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Italian Republic shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Italian Republic to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of the Italian Republic shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Italy or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Italian Republic or authorized persons under its jurisdi-

ment has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Israel, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Israel.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX VIII

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Italian Republic;

2. A letter dated June 8, 1955, from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter dated June 9, 1955, from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Italy on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactivity isotopes in biology, medicine, agriculture and industry. Italy, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Italy. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Italy up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Italy or while fuel elements are in transit. The amount of special nuclear material which would be made available to Italy under this agreement would not be important from the military point of view and the limitation expressed will restrict Italy in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Italy to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Italy.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ITALIAN REPUBLIC

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Italian Republic desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

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tion such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Italy. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Italy may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Italian Republic and such persons under its jurisdiction as are authorized by the Government of the Italian Republic to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Italian Republic.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Italian Republic or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Italian Republic agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Italian Republic agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Italian Republic or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Italian Republic decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Italian Republic agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Italian Republic will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Italian Republic guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Italian Republic or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Italian Republic except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

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ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of the Italian Republic shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Italian Republic, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Italy.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

LIVINGSTON T. MERCHANT,
L. T. M. June 7, 1955
Assistant Secretary of State for European Affairs.

LEWIS L. STRAUSS,
L. S. 6/7/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Italian Republic:

MANLIO BROSIO,
M. TURO. Wash. June 7, 1955
Ambassador of Italy.

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 8, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of the Italian Republic and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the

development of the peaceful uses of atomic energy in Italy, in accordance with the policy which you have established. The Government of the Italian Republic has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Italy, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Italy. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Italy up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Italy will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Italy.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 9, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 8, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of Italy and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of Italy desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of Italy special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of Italy concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Italy, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Italy.

Sincerely,

DWIGHT D. EISENHOWER.

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APPENDIX IX

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington, D. C., June 27, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there is submitted with this letter:

1. A proposed agreement for cooperation with the Government of Japan;
2. A letter dated June 22, 1955, from the Commission to the President, recommending his approval of the proposed agreement;
3. A letter dated June 25, 1955, from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Japan on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Japan, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Japan. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Japan up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Japan or while fuel elements are in transit. The amount of special nuclear material which would be made available to Japan under this agreement would not be important from the military point of view and the limitation expressed will restrict Japan in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Japan to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Japan.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of Japan desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article I of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of Japan desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission, desires to assist the Government of Japan in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

For purposes of this Agreement:

A. "The United States Atomic Energy Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "Atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

ARTICLE II

Subject to the limitations of Article VI, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE III

A. The Government of the United States of America, represented by the United States Atomic Energy Commission, will lease to the Government of Japan uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of Japan in consultation with the Government of the United States of America, represented by the United States Atomic Energy Commission decides to construct and as required in experiments relating to the peaceful uses of atomic energy. Also, the Government of the United States of America, represented by the United States Atomic Energy Commission, will lease to the Government of Japan uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of Japan may, in consultation with the Government of the United States of America, represented by the United States Atomic Energy Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of Japan shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of Japan to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Government of the United States of America, represented by the United States Atomic Energy Commission, and in the custody of the Government of Japan shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Government of the United States of America, represented by the United States Atomic Energy Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Japan or while fuel elements are in transit, it being the intent of the Government of the United States of America, represented by the United States Atomic Energy Commission, to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Government of the United States of America, represented by the United States Atomic Energy

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Commission, require replacement, they shall be returned to the Government of the United States of America, represented by the United States Atomic Energy Commission, and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Government of the United States of America, represented by the United States Atomic Energy Commission.

D. The lease of uranium enriched in the isotope U–235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VII and VIII.

ARTICLE IV

Subject to the availability of supply and as may be mutually agreed, the Government of the United States of America, represented by the United States Atomic Energy Commission, will sell or lease through such means as it deems appropriate, to the Government of Japan or persons under its jurisdiction who may be authorized by the Government of Japan, such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Japan. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE V

With respect to the subjects of agreed exchange of information as provided in Article II, it is understood that the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of Japan and such persons under its jurisdiction who may be authorized by the Government of Japan to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article VI.

B. Applicable laws, regulations and license requirements of the Government of the United States of America and the Government of Japan.

ARTICLE VI

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of Japan or persons under its jurisdiction who may be authorized by the Government of Japan if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VII

A. The Government of Japan agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Government of the United States of America, represented by the United States Atomic Energy Commission, shall be used solely for the purposes agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of Japan agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, leased or purchased in the United States of America under this Agreement by the Government of Japan or persons under its jurisdiction who may be authorized by the Government of Japan, shall be used solely for the design, construction, and operation of research reactors which the Government of Japan decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of Japan agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Government of the United States of America, represented by the United States Atomic Energy Commission, on these subjects. If the Government of the United States of America, represented by the United States Atomic Energy Commission, requests, the Government of Japan will permit United States Atomic Energy Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VIII

The Government of Japan guarantees that:

A. Safeguards provided in Article VII shall be maintained.

B. No material, including equipment and devices, transferred to the Government of Japan or persons under its jurisdiction who may be authorized by the Government of Japan, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Japan except as the Government of the United States of America, represented by the United States Atomic Energy Commission, may agree to such transfer to another nation and then only if in the opinion of the Government of the United States of America, represented by the United States Atomic Energy Commission, such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE IX

This Agreement shall enter into force on the date of an exchange of notes between the Government of the United States of America and the Government of Japan establishing that all constitutional or statutory procedures necessary to give legal effect to this Agreement in each country have been completed The Agreement shall remain in force for a period of five years from the date it enters into force, and shall be subject to renewal as may be agreed between the two Governments.

At the expiration of this Agreement or any extension thereof the Government of Japan shall deliver to the United States all fuel elements containing reactor fuels leased by the Government of the United States of America, represented by the United States Atomic Energy Commission, and any other fuel material leased by the Government of the United States of America, represented by the United States Atomic Energy Commission. Such fuel elements and such fuel materials shall be delivered to the Government of the United States of America, represented by the United States Atomic Energy Commission, at a site in the United States designated by the Government of the United States of America, represented by the United States Atomic Energy Commission, at the expense of the Government of Japan, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

IN WITNESS WHEREOF, the representatives of the two Governments authorized for the purpose, have signed this Agreement.

DONE AT Washington, in duplicate in the English and Japanese languages, this ------ day of ----------, 1955.

For the Government of the United States of America:

WALTER S. ROBERTSON,
W. S. R. June 21, 1955
Asst. Secr tary for Far Eastern Affairs.

LEWIS L. STRAUSS,
L. L. S. June 21, 1955
Chairman, U. S. Atomic Energy Commission.

For the Government of Japan:

SADAO IGUCHI,
S. I. June 21, 1955
Ambassador.

JUNE 22, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of Japan and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agree-

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ment has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Japan, in accordance with the policy which you have established. The Government of Japan has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Japan, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Japan. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Japan up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Japan will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Japan.

Respectfully,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 25, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 22, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of Japan and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of Japan desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Government of Japan special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of Japan concerning civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Japan, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Japan.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX X

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., July 7, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Republic of Korea.
2. A letter from the Commission to the President recommending his approval of the proposed agreement.
3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Korea on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Korea, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Korea. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Korea up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Korea or while fuel elements are in transit. The amount of special nuclear material which would be made available to Korea under this agreement would not be important from the military point of view and the limitation expressed will restrict Korea in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Korea to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Korea.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF KOREA

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Republic of Korea desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Republic of Korea desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the

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Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Republic of Korea in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Republic of Korea uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Republic of Korea, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Republic of Korea uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Republic of Korea may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Republic of Korea shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Republic of Korea to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of the Republic of Korea shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Korea or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Republic of Korea or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Korea. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Korea may deal directly with private individuals and private organizations in the other country. Accordingly,

with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Republic of Korea and such persons under its jurisdiction as are authorized by the Government of the Republic of Korea to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Republic of Korea.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Republic of Korea or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Republic of Korea agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Commission shall be used solely for the purposes agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Republic of Korea agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Republic of Korea or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Republic of Korea decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Republic of Korea agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Republic of Korea will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Republic of Korea guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Republic of Korea or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of Korea except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or any extension thereof the Government of the Republic of Korea shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Republic of Korea and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

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ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Korea.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT Washington in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

WALTER S. ROBERTSON,
W. S. R. 7/1/55
Assistant Secretary for Far Eastern Affairs.
LEWIS L. STRAUSS,
L. S. 7/1/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Republic of Korea:

YOU CHAN YANG,
Y. C. Y. 7/1/55
Ambassador of Korea.

JULY 5, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the Republic of Korea and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Korea, in accordance with the policy which you have established. The Government of the Republic of Korea has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Under the agreement Korea, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Korea. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Korea up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Korea will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Korea.

Respectfully,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, July 7, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of July 5, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of Korea and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of Korea desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of Korea special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of Korea concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Korea, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Korea.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XI

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 10, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there is submitted with this letter:

1. A proposed agreement for cooperation with the Government of the Republic of Lebanon;

2. A letter dated June 2, 1955, from the Commission to the President, recommending his approval of the proposed agreement;

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3. A letter dated June 2, 1955, from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Lebanon on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Lebanon, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Lebanon. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Lebanon up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Lebanon or while fuel elements are in transit. The amount of special nuclear material which would be made available to Lebanon under this agreement would not be important from the military point of view and the limitation expressed will restrict Lebanon in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Lebanon to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Lebanon.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF LEBANON

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Republic of Lebanon desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Republic of Lebanon desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Republic of Lebanon in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Republic of Lebanon uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Republic of Lebanon, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Republic of Lebanon uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Republic of Lebanon may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Republic of Lebanon shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Republic of Lebanon to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of the Republic of Lebanon shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Lebanon or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Republic of Lebanon or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Lebanon. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Lebanon may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Republic of Lebanon and such persons under its jurisdiction as are authorized by the Government of the Republic of Lebanon to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Republic of Lebanon.

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ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Republic of Lebanon or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Republic of Lebanon agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Republic of Lebanon agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Republic of Lebanon or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Republic of Lebanon decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Republic of Lebanon agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Republic of Lebanon will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTEES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Republic of Lebanon guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Republic of Lebanon or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of Lebanon except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of the Republic of Lebanon shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Republic of Lebanon, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Lebanon.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

GEORGE V. ALLEN,
Assistant Secretary of State for Near Eastern, South Asian and African Affairs.

LEWIS L. STRAUSS,
Chairman, U. S. Atomic Energy Commission.

For the Government of the Republic of Lebanon:

CHARLES MALIK,
Ambassador of Lebanon.

JUNE 2, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of the Republic of Lebanon and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954 This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Lebanon, in accordance with the policy which you have established. The Government of the Republic of Lebanon has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Lebanon, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Lebanon. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Lebanon up to 6 kilograms of contained U-235 in uranium enriched up to a maximum of 20 percent U-235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Lebanon will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Lebanon.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

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THE WHITE HOUSE,
Washington, June 2, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 2, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of Lebanon and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of Lebanon desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of Lebanon special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of Lebanon concerning the civil uses of atomic energy

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Lebanon, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Lebanon.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XII

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Kingdom of the Netherlands;

2. A letter from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determinination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and the Netherlands on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medi-

cine, agriculture, and industry. The Netherlands, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to the Netherlands. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to the Netherlands up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in the Netherlands or while fuel elements are in transit. The amount of special nuclear material which would be made available to the Netherlands under this agreement would not be important from the military point of view and the limitation expressed will restrict the Netherlands in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by the Netherlands to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in the Netherlands.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF THE NETHERLANDS

WHEREAS the Government of the United States and the Government of the Netherlands, mindful of the fact that atomic energy is capable of application for peaceful purposes which hold great promise for all mankind, desire to cooperate with each other in developing and furthering the beneficial uses of atomic energy;

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article I of this Agreement) which are useful in production of radioisotopes, in medical therapy, and in numerous other research activities, and which are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy, including civilian nuclear power; and

WHEREAS the Government of the Netherlands desires to pursue a research and development program looking toward the realization of peaceful and humanitarian uses of atomic energy which it has undertaken, and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Netherlands in such a program.

NOW THEREFORE, the parties to this Agreement, the Government of the United States of America and the Government of the Netherlands, agree as follows:

ARTICLE I

For purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactors" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

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ARTICLE II

Subject to the limitations of Article VI, the parties hereto will exchange information in the following fields:

A. The design, construction and operation of research reactors and their use as research, development and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical thereapy agriculture and industry.

ARTICLE III

A. The Commission will lease to the Government of the Netherlands uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Netherlands, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Netherlands uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Netherlands may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Netherlands shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Netherlands to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of the Netherlands shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in the Netherlands or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission, and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VII and VIII.

ARTICLE IV

A. Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease, through such means as it deems appropriate, to the Government of the Netherlands or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market in the United States and which are required in the construction and operation of research reactors in the Netherlands. The sale or lease of these materials shall be on such terms as may be agreed.

B. With respect to heavy water, it is the intent of the Government of the United States to make available at this time to the Government of the Netherlands by sale or lease only such quantities thereof as may be needed in research reactors in the Netherlands. However, the Government of the United States recognizes that additional quantities of heavy water may be needed in the future as the work of the Government of the Netherlands on the development of electric power from atomic energy progresses. Accordingly, the Government of the United States declares that, at such time, it will discuss with the Government of the Netherlands the matter of supplying the needs of that Government for heavy water for non-military purposes. Such additional supply as may be agreed shall be made available by the Commission to the Government of the Netherlands under this Agreement.

ARTICLE V

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or the Netherlands may deal directly with private individuals and private organizations in the other country, and that private individuals and private organizations in the United States may deal directly with the Government of the Netherlands. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article II, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to and perform services for the Government of the Netherlands and such persons under its jurisdiction as are authorized by the Government of the Netherlands to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article VI.

B. Applicable laws, regulations and license requirements of the Government of the United States and the Government of the Netherlands.

ARTICLE VI

Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Netherlands or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VII

A. The Government of the Netherlands agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purposes agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Netherlands agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Netherlands or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Netherlands decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Netherlands agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Netherlands will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VIII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Netherlands guarantees that:

A. Safeguards provided in Article VII shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Netherlands or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Netherlands except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE IX

At the expiration of this Agreement or any extension thereof the Government of the Netherlands shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission at the expense of the Government of the Netherlands, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

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ARTICLE X

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in the Netherlands.

ARTICLE XI

This Agreement shall enter into force on the date of its formal execution by both parties, but no sooner than the day after receipt by the Government of the United States of America of a formal communique on behalf of the Government of the Netherlands, communicating to the former that the necessary constitutionally required approval has been obtained, and shall remain in force for a period of five (5) years from that date. This Agreement shall be subject to renewal as may be mutually agreed.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

C. BURKE ELBRICK,
CBE 6/14/55
Deputy Assistant Secretary of State for European Affairs.
LEWIS L. STRAUSS,
LS 6/14/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Netherlands:

J. H. VAN ROIJEN,
J. H. van Roijen 6/14/55
Ambassador of the Netherlands.

JUNE 14, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the Kingdom of the Netherlands and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in the Netherlands, in accordance with the policy which you have established. The Government of the Kingdom of the Netherlands has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement the Kingdom of the Netherlands, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to the Netherlands. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to the Netherlands up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the Kingdom of the Netherlands and the United States will lead to further discussions and agreements relating to the peaceful uses of atomic energy in the Netherlands.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, D. C., June 16, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 14, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Kingdom of the Netherlands and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Kingdom of the Netherlands desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Kingdom of the Netherlands special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Kingdom of the Netherlands concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and the Netherlands, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in the Netherlands.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XIII

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 27, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there is submitted with this letter:

1. A proposed agreement for cooperation with the Government of Pakistan;

2. A letter dated June 22, 1955, from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter dated June 25, 1955, from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing

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his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Pakistan on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Pakistan, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Pakistan. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Pakistan up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Pakistan or while fuel elements are in transit. The amount of special nuclear material which would be made available to Pakistan under this agreement would not be important from the military point of view and the limitation expressed will restrict Pakistan in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Pakistan to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Pakistan.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PAKISTAN

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of Pakistan desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of Pakistan desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of Pakistan in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of Pakistan uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of Pakistan, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of Pakistan uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of Pakistan may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of Pakistan shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of Pakistan to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of Pakistan shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty per cent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Pakistan or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of Pakistan or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Pakistan. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Pakistan may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of Pakistan and such persons under its jurisdiction as are authorized by the Government of Pakistan to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of Pakistan.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of Pakistan or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. Government of Pakistan agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commis-

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sion shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of Pakistan agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of Pakistan or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of Pakistan decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of Pakistan agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of Pakistan will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTEES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of Pakistan guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of Pakistan or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Pakistan except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on -------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of Pakistan shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of Pakistan, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Pakistan.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT _____ in duplicate this _____ day of _____, 1955.

For the Government of the United States of America:

JOHN D. JERNEGAN,
JDJ 6/15/55
Acting Assistant Secretary of State for Near Eastern, South Asian and African Affairs.
LEWIS L. STRAUSS,
LLS 6/15/55
Chairman, U. S. Atomic Energy Commission.

For the Government of Pakistan:

SYED AMJAD ALI,
SAA 6/15/55
Ambassador of Pakistan.

JUNE 22, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of Pakistan and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Pakistan, in accordance with the policy which you have established. The Government of Pakistan has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Pakistan, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Pakistan. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Pakistan up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Pakistan will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Pakistan.

Respectfully,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 25, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 22, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of Pakistan and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The

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agreement recites that the Government of Pakistan desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Government of Pakistan special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of Pakistan concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Pakistan, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Pakistan.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XIV

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., July 7, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Republic of Peru;

2. A letter from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Peru on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Peru, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Peru. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Peru up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Peru or while fuel elements are in transit. The amount of special nuclear material which would

be made available to Peru under this agreement would not be important from the military point of view and the limitation expressed will restrict Peru in determining the choice of reactor to be constructed to a research reactor

Article VI of the proposed agreement records the obligations undertaken by Peru to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Peru.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF PERU CONCERNING CIVIL USES OF ATOMIC ENERGY

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Republic of Peru desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Republic of Peru desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Republic of Peru in such a program;

The Parties therefore agree as follows:

ARTICLE I

Subject to the limitations of Article V, the Parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Republic of Peru uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Republic of Peru, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Republic of Peru uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Republic of Peru may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate,

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provided the Government of the Republic of Peru shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Republic of Peru to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U–235 transferred by the Commission and in the custody of the Government of the Republic of Peru shall not at any time be in excess of six (6) kilograms of contained U–235 in uranium enriched up to a maximum of twenty percent (20%) U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Peru or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U–235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U–235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Republic of Peru or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Peru. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Peru may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Republic of Peru and such persons under its jurisdiction as are authorized by the Government of the Republic of Peru to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States and the Government of the Republic of Peru.

ARTICLE V

Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Republic of Peru or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Republic of Peru agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Republic of Peru agrees to maintain such safeguards as are necessary to assure that all other reacter materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Republic of Peru or authorized persons under its jurisdiction,

shall be used solely for the design, construction, and operation of research reactors which the Government of the Republic of Peru decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Republic of Peru agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Republic of Peru will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTEES PRESCRIBED BY THE UNITED STATES ATOMIC ENERGY ACT OF 1954

The Government of the Republic of Peru guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Republic of Peru or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction ot the Government of the Republic of Peru except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration ot this Agreement or an extension thereof the Government of the Republic of Peru shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Republic of Peru, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the Parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the Parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Peru.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE at Washington in duplicate this ---------- day of ------, 1955.
For the Government of the United States of America:

HENRY F. HOLLAND,
H. F. H. 7/1/55
Assistant Secretary of State for Inter-American Affairs.
LEWIS L. STRAUSS,
L. S. 7/1/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Republic of Peru:

DON FERDANDO BERCKEMEYER,
D. F. B. 7/1/55
Ambassador of Peru.

JULY 5, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the Republic of Peru and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Peru, in accordance with the policy which you have established. The Government of the Republic of Peru has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Under the agreement Peru, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Peru. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Peru up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Peru will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Peru.

Respectfully,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, July 7, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of July 5, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of Peru and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of Peru desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance

from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guarantees prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of Peru special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of Peru concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Peru, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Peru.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XV

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Republic of the Philippines;

2. A letter from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and the Philippines on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. The Philippines, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to the Philippines. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to the Philippines up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in the Philippines or while fuel elements are in transit. The amount of special nuclear material which would be made available to the Philippines under this agreement would not be important from

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the military point of view and the limitation expressed will restrict the Philippines in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by the Philippines to safeguard the special nuclear material to be leased by the commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in the Philippines.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Attached are two certified copies of an agreement for cooperation between the Government of the United States and the Government of the Republic of the Philippines to replace those copies previously forwarded to you.

The present copies correct a typographical error which inadvertently occurred.

Sincerely yours,

J. L. KELEHAN,
Assistant General Manager for Administration.

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF THE PHILIPPINES

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Republic of the Philippines desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Republic of the Philippines desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Republic of the Philippines in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Republic of the Philippines uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Republic of the Philippines, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Republic of the Philippines uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Republic of the Philippines may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Republic of the Philippines shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Republic of the Philippines to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U–235 transferred by the Commission and in the custody of the Government of the Republic of the Philippines shall not at any time be in excess of six (6) kilograms of contained U–235 in uranium enriched up to a maximum of twenty percent (20%) U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in the Philippines or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U–235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U–235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Republic of the Philippines or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in the Philippines. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or the Philippines may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Republic of the Philippines and such persons under its jurisdiction as are authorized by the Government of the Republic of the Philippines to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

D. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Republic of the Philippines.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Republic of the Philippines or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

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ARTICLE VI

A. The Government of the Republic of the Philippines agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purposes agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Republic of the Philippines agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Republic of the Philippines or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Republic of the Philippines decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Republic of the Philippines agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Republic of the Philippines will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Republic of the Philippines guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Republic of the Philippines or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of the Philippines except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or any extension thereof the Government of the Republic of the Philippines shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Republic of the Philippines, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in the Philippines.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

ROBERT MURPHY,
RM 6/14/55
Deputy Under Secretary of State.
LEWIS L. STRAUSS,
LLS 6/14/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Republic of the Philippines:

RAUL T. LEUTERIO,
RTL 6/14/55
Chargé d'Affaires ad interim of the Philippines.

JUNE 14, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of the Republic of the Philippines and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with Section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in the Philippines, in accordance with the policy which you have established. The Government of the Republic of the Philippines has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement the Republic of the Philippines, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to the Philippines, No restricted data would be communicated under this agreement. The Atomic Energy Commission however, would lease to the Philippines up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the Republic of the Philippines and the United States will lead to further discussions and agreements relating to the peaceful uses of atomic energy in the Philippines.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

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THE WHITE HOUSE,
Washington, D. C., June 16, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 14, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of the Philippines and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of the Philippines desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guarantees prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of the Philippines special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and, upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of the Philippines concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and the Philippines, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in the Philippines.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XVI

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of Portugal;

2. A letter from the Commission to the President, recommending his approval of the proposed agreement;

3 A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Portugal on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Portugal, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in

the United States will be permitted, within the limits of the agreement, to render other assistance to Portugal. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Portugal up to 6 kilograms of contained U-235 in uranium enriched up to a maximum of 20 percent U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Portugal or while fuel elements are in transit. The amount of special nuclear material which would be made available to Portugal under this agreement would not be important from the military point of view and the limitation expressed will restrict Portugal in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Portugal to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Portugal.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF PORTUGAL

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of Portugal desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of Portugal desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of Portugal in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of Portugal uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of Portugal, in consultation with the Commission,

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decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of Portugal uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of Portugal may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of Portugal shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of Portugal to comply with the provisions of this agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of Portugal shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Portugal or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission, and except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of Portugal or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Portugal. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Portugal may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of Portugal and such persons under its jurisdiction as are authorized by the Government of Portugal to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of Portugal.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of Portugal or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of Portugal agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of Portugal agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and

devices, purchased in the United States of America under this Agreement by the Government of Portugal or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of Portugal decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of Portugal agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of Portugal will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of Portugal guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of Portugal or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Portugal except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of Portugal shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of Portugal, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Portugal.

ARTICLE X

For the purposes of this Agreement:

A "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

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D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate in the English and Portuguese languages this ------ day of ----------, 1955.

For the Government of the United States of America:
C. BURKE ELBRICK,
CBE 6/14/55
Deputy Assistant Secretary of State for European Affairs.
LEWIS L. STRAUSS,
L. S. 6/14/55
Chairman, U. S. Atomic Energy Commission.

For the Government of Portugal:
LUIS ESTEVES FERNANDES,
Luis Esteves Fernandes 6/14/55
Ambassador of Portugal.

JUNE 14, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the Government of Portugal and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Portugal, in accordance with the policy which you have established. The Government of Portugal has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Under the agreement Portugal, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Portugal. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Portugal up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Portugal will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Portugal.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, D. C., June 16, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 14, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of Portugal and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agree-

not be important from the military point of view and the limitation expressed will restrict Spain in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Spain to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Spain.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF SPAIN

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of Spain desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of Spain desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of Spain in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of Spain uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of Spain, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of Spain uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of Spain may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of Spain shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of Spain to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U–235 transferred by the Commission and in the custody of the Government of Spain shall not at any time

ment recites that the Government of Portugal desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Government of Portugal special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of Portugal concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Portugal, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Portugal.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XVII

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of Spain;

2. A letter dated June 8, 1955, from the Commission to the President, recommending his approval of the proposed agreement;

3. A letter dated June 9, 1955, from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Spain on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Spain, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the Agreement, to render other assistance to Spain. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Spain up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Spain or while fuel elements are in transit. The amount of special nuclear material which would be made available to Spain under this agreement would

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ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of Spain guaranties that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of Spain or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise, will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Spain except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of Spain shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of Spain, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional aggrement for cooperation with respect to the production of power from atomic energy in Spain.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ----------, in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

LIVINGSTON T. MERCHANT,
L. T. M. June 7, 1955
Assistant Secretary of State for European Affairs.

LEWIS L. STRAUSS,
L. S. 6/7/55
Chairman, U. S. Atomic Energy Commission.

For the Government of Spain:

JOSE M. DE AREILZA,
JA 6/7/55
Ambassador of Spain.

be in excess of six (6) kilograms of contained U–235 in uranium enriched up to a maximum of twenty percent (20%) U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Spain or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U–235 leased by the Commission require replacement, they shall be returned to the Commission, and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U–235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of Spain or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Spain. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Spain may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of Spain and such persons under its jurisdiction as are authorized by the Government of Spain to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of Spain.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of Spain or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of Spain agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of Spain agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of Spain or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of Spain decides to construct and operate and for research in connection therewith, except as many otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of Spain agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of Spain will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

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JUNE 8, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of Spain and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with Section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Spain, in accordance with the policy which you have established. The Government of Spain has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture and industry. Under the agreement Spain, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Spain. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Spain up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Spain will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Spain.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 9, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 8, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of Spain and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of Spain desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Government of Spain special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of Spain concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed

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agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Spain, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Spain.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XVIII

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., July 7, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of Sweden;
2. A letter from the Commission to the President, recommending his approval of the proposed agreement;
3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Sweden on the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Sweden, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Sweden. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Sweden up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Sweden or while fuel elements are in transit. The amount of special nuclear material which would be made available to Sweden under this agreement would not be important from the military point of view and the limitation expressed will restrict Sweden in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Sweden to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Sweden.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF SWEDEN CONCERNING CIVIL USES OF ATOMIC ENERGY

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of Sweden desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of Sweden desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of Sweden in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the Parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of Sweden uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of Sweden, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of Sweden uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of Sweden may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of Sweden shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of Sweden to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of Sweden shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Sweden or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of Sweden or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Sweden. The sale or lease of these materials shall be on such terms as may be agreed.

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ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Sweden may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of Sweden and such persons under its jurisdiction as are authorized by the Government of Sweden to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of Sweden.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of Sweden or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of Sweden agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purposes agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of Sweden agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of Sweden or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of Sweden decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of Sweden agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of Sweden will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE UNITED STATES ATOMIC ENERGY ACT OF 1954

The Government of Sweden guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of Sweden or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons of for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Sweden except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or any extension thereof the Government of Sweden shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Com-

mission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of Sweden, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Sweden.

ARTICLE X

For purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE at Washington in duplicate this ..... day of ....., 1955.

For the Government of the United States of America:

C. BURKE ELBRICK,
C. B. E. 7/1/55
Deputy Assistant Secretary of State for European Affairs.
LEWIS L. STRAUSS,
L. S. 7/1/55
Chairman. U. S. Atomic Energy Commission.

For the Government of Sweden:

CARL L. DOUGLAS,
C. D. 7/1/55
Charge d'Affaires ad interim of Sweden.

JULY 5, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of Sweden and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Sweden, in accordance with the policy which you have established. The Government of Sweden has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

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The proposed agreement calls for cooperation with respect to the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Sweden, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Sweden. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would loose to Sweden up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Sweden will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Sweden.

Respectfully,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, July 7, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of July 5, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of Sweden and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of Sweden desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Government of Sweden special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of Sweden concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Sweden, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Sweden.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XIX

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 16, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there is submitted with this letter:

(1) A proposed agreement for cooperation with the Government of Switzerland;

(2) A letter from the Commission to the President, dated June 10, 1955, recommending his approval of the proposed agreement;

(3) A letter dated June 14, 1955, from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security.

The proposed agreement relates to the sale to the Swiss Government of the research reactor which the United States will construct and operate in Geneva, Switzerland, in connection with the forthcoming International Conference on Peaceful Uses of Atomic Energy, to the exchange of information relating to that reactor, and to the lease of special nuclear material for reactor fuel. The sales price to the Swiss Government is $180,000 as determined from the fair salvage value of the reactor in place in Geneva.

No restricted data will be communicated to the Swiss under the proposed agreement. The Atomic Energy Commission, however, would lease to the Swiss Commission for Nuclear Research as initial and replacement fuel in the operation of the research reactor purchased up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Atomic Energy Commission, is necessary to permit the efficient and continuous operation of the reactor while replaced fuel elements are radioactively cooling in Switzerland or while fuels are in transit.

Under the proposed agreement the Swiss Government agrees to restore the site of the United States reactor, reactor building, and exhibits at the United Nations grounds in Geneva to its original condition and to bear all costs associated with the removal of the reactor from the United Nations grounds for reassembly, and operation at a new site in Switzerland. We understand that the Swiss tenatively plan to locate the research reactor in Wurelingen Commune, Aargau Canton, near the site of the natural uranium heavy-water reactor which the Swiss plan to construct.

Article VI of the proposed agreement records the obligations undertaken by the Swiss with respect to safeguarding the special material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123a of the Atomic Energy Act.

It is the judgment of the Commission that the proposed agreement is an important and desirable step in advancing the development of the peaceful uses of atomic energy in Switzerland.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION

AGREEMENT FOR COOPERATION between the GOVERNMENT of the UNITED STATES OF AMERICA and the GOVERNMENT OF SWITZERLAND relating to the sale and purchase of a research reactor, the exchange of information relating thereto, and the lease of special nuclear material,

WHEREIN IT IS MUTUALLY AGREED AS FOLLOWS:

ARTICLE I

A. At the conclusion of the international conference on the peaceful uses of atomic energy sponsored by the United Nations and to be held in Geneva, Switzerland during August 1955, the Government of the United States of America, through the United States Atomic Energy Commission (hereinafter referred to

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as the "United States Commission") will sell to the Swiss Commission for Nuclear Research (hereinafter referred to as the "Swiss Commission") and the Swiss Commission, for the Government of Switzerland, will purchase the research type nuclear reactor which the Government of the United States of America will construct, locate, and operate in Geneva, Switzerland in connection with the aforesaid international conference, together with the reactor building, associated machinery, and exhibits.

B. The sale and purchase shall be consummated on an "as is, where is" basis, and the passage of title shall be evidenced by such documents as both Governments may deem appropriate.

C. The price of the reactor, reactor building, associated machinery, and exhibits to the Government of Switzerland shall be One Hundred Eighty Thousand dollars ($180,000.00), payment to be made in United States currency at the time of passage of title.

D. It is understood and agreed that

(1) The sale and purchase shall not include fuel in the reactor or in Switzerland in connection with the operation of the reactor by the Government of the United States at the international conference, and all reactor fuel made available to the Swiss Commission by the United States Commission shall be subject to the terms of Article III of this Agreement.

(2) Any reactor fuel in excess of the limitations on quantity expressed in Article III of this Agreement, in Geneva, Switzerland at the conclusion of the international conference shall be returned to the United States of America by the United States Commission.

(3) In the event the Swiss Commission should decide to locate the reactor, reactor building, associated machinery, and exhibits at some location in Switzerland other than at its site in Geneva, after title thereto has passed to the Government of Switzerland, such relocation (including dismantling, shipment, reassembly, and start-up) shall be at the sole expense of the Government of Switzerland, and the Government of Switzerland, also at its expense, shall be responsible for restoring to its original condition the site in Geneva at which the reactor and reactor building were located by the Government of the United States of America.

ARTICLE II

Subject to the limitations of Article VI of this Agreement, the United States Commission will exchange with the Swiss Commission information relating to the reactor which is the subject of sale to the Swiss Commission and, particularly, information relating to

A. The design, construction and operation of the reactor and its use as a research tool;

B. Health and safety problems in the operation and use of the reactor;

C. The use of radioactive isotopes produced in the reactor.

ARTICLE III

A. The United States Commission will lease to the Swiss Commission uranium enriched in the isotope U–235 as may be required as initial and replacement fuel in the operation of the reactor by the Swiss Commission and as required in experiments related thereto pertaining wholly to the development of the peaceful uses of atomic energy.

B. The quantity of uranium enriched in the isotope U–235 transferred by the United States Commission and in the custody of the Swiss Commission shall not at any time be in excess of six (6) kilograms of contained U–235 in uranium enriched up to a maximum of twenty percent (20%), plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor while replaced fuel elements are radioactively cooling in Switzerland or while fuel elements are in transit, it being the intent of the United States Commission to make possible the maximum usefulness of the six (6) kilograms of material.

C. When any fuel elements containing U–235 leased by the United States Commission to the Swiss Commission require replacements, they shall be returned and delivered to the United States Commission at a site in the United States designated by the United States Commission at the expense of the Swiss Commission, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit. Except as may be mutually agreed, the form

and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the United States Commission.

D. The lease of uranium enriched in the isotope U–235 shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed, and under the conditions stated in Article VII and IX.

ARTICLE IV

Subject to the availability of supply and as may be mutually agreed, the United States Commission will sell or lease, through such means as it deems appropriate, to the Swiss Commission such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the operation of the reactor in Switzerland. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE V

If, during the term of this Agreement, the Government of Switzerland, or authorized agencies (including the Swiss Commission), persons or organizations under its jurisdiction, desire to utilize the services of private persons or organizations under the jurisdiction of the Government of the United States of America in connection with the disassembling, relocation, assembling start-up and operation and use of the reactor or in connection with research and development activities related thereto (including the sale and export of reactor materials), the United States Commission will authorize persons or organizations under the jurisdiction of the Government of the United States of America to perform such services within the limits of this Article and the subjects of agreed exchange of information provided in Article II and subject to

A. The limitations expressed in Article VI of this Agreement and

B. All applicable laws, regulations and licensing requirements of the Government of the United States of America and the Government of Switzerland.

ARTICLE VI

Restricted Data shall not be communicated under this Agreement, and no materials or services shall be furnished under this Agreement to the Government of Switzerland, its authorized agencies or nationals if the transfer of any such materials or the furnishing of any such services involves the communication of the Restricted Data.

ARTICLE VII

The Government of Switzerland agrees that the reactor purchased from the Government of the United States of America shall be used solely for research purposes related to the development of the peaceful, beneficial, and humanitarian uses of atomic energy, and that it will maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the United States Commission and all other reactor materials purchased in the United States or leased from the United States Commission shall be used solely in the said reactor for such purposes. The Government of Switzerland agrees also that it will maintain such safeguards as are necessary to assure the safekeeping of any uranium enriched in the isotope U–235 which the Swiss Commission may lease from the United States Commission.

ARTICLE VIII

The Swiss Commission and the United States Commission will exchange information concerning the operation and use of the reactor and research conducted in connection therewith, including information relating to power levels of operation and burn-up of reactor fuels. Subject to the limitations of Article VI, special questions relating to the reactor may be discussed through personal contact between representatives of the Swiss Commission and the United States Commission.

ARTICLE IX

The Government of Switzerland guarantees that:

A. The safeguards undertaken in Article VII shall be maintained.

B. No material, including the reactor transferred to the Swiss Commission pursuant to this Agreement, by lease, sale or otherwise, will be used for atomic weapons or for research on or development of atomic weapons or

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for any other military purposes, and no such material, including the research reactor and special nuclear material leased to the Swiss Commission, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of Switzerland.

ARTICLE X

A. This Agreement shall enter into force on ---------- and remain in force for five years until ----------, inclusively. At the expiration of this term, the Agreement shall be renewed automatically for another period of five (5) years unless either the Government of the United States of America or the Government of Switzerland shall, upon three (3) months notice to the other Government, announce its intention to terminate the Agreement on the aforesaid expiration date.

B. At the expiration of this Agreement, or an extension thereof, the Government of Switzerland shall deliver to the Government of the United States of America all fuel elements containing reactor fuels and any other fuel material leased by the United States Commission. Such fuel elements and fuel materials shall be delivered to the United States Commission at a site in the United States designated by the United States Commission at the expense of the Government of Switzerland, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE XI

For purposes of this Agreement:

A. "Reactor" means an apparatus, other than an atomic weapon, in which a self-supporting chain reaction can be maintained. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering; and the term does not include reactor designed for the production of power, for demonstrating the production of power, or primarily for the production of special nuclear material.

B. "The reactor" or "the research reactor" means the reactor to be constructed, located, and operated in Geneva, Switzerland by the Government of the United States of America in connection with the International Conference on the Peaceful Uses of Atomic Energy sponsored by the United Nations and to be held at Geneva, Switzerland in August 1955.

C. "Restricted Data" means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category by the United States Commission.

D. "Atomic Weapon" means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

E. "Special nuclear material" means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the United States Commission may from time to time determine is special nuclear material; or (2) any material artificially enriched by any of the foregoing.

IN WITNESS WHEREOF, the duly authorized representatives of the Government of the United States of America and of the Government of Switzerland have signed this Agreement.

DONE AT Washington in duplicate this ------ day of ---------- 1955.

For the Government of the United States of America:

LIVINGSTON T. MERCHANT,
Assistant Secretary of State for European Affairs.

LEWIS L. STRAUSS,
Chairman, U. S. Atomic Energy Commission.

For the Government of Switzerland:

HENRY DE TORRENTE,
Minister of Switzerland.

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 10, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed proposed "Agreement for Cooperation" between the Government of Switzerland and the Government of the United States of America, and authorize its execution after it has been placed before the Joint Committee on Atomic Energy of the Congress in accordance with section 123c of the Atomic Energy Act of 1954.

The proposed agreement relates to the sale to the Swiss Government of the research reactor which the United States will construct and operate in Geneva, Switzerland, in connection with the forthcoming International Conference on Peaceful Uses of Atomic Energy, to the exchange of information relating to the reactor, and to the lease of special nuclear material for reactor fuel. The sales price to the Swiss Government is $180,000 as determined from the fair salvage value of the reactor in place in Geneva. Under the agreement, the Swiss Government agrees to restore the site at the United Nations grounds to its original condition and to bear all costs associated with the removal of the reactor from United Nations grounds, transportation, reassembly, and operation at a new site in Switzerland. We understand that the Swiss tentatively plan to locate the research reactor in Wurelingen Commune, Aargan Canton, near the site of the proposed Swiss natural uranium heavy-water reactor.

No restricted data would be communicated to the Government of Switzerland under this agreement. The Atomic Energy Commission, however, would lease to the Swiss Commission for Nuclear Research as initial and replacement fuel in the operation of the research reactor up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the United States Commission, is necessary to permit the efficient and continuous operation of the reactor while replaced fuel elements are radioactively cooling in Switzerland or while fuel elements are in transit.

The Government of Switzerland has signified its agreement to the guarantees prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

It is the opinion of the Atomic Energy Commission that the proposed agreement is an important and desirable step in advancing the development of the peaceful uses of atomic energy in Switzerland, in accordance with the policy which you have established.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, June 14, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 10, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement for cooperation between the Government of Switzerland and the Government of the United States of America and authorize its execution.

I have examined the agreement recommended. It relates to the sale to the Swiss Government of the research reactor which the United States will construct and operate in Geneva, Switzerland, in connection with the International Conference on Peaceful Uses of Atomic Energy to be held in Geneva this coming August. The proposed agreement also calls for the exchange with the Swiss Commission for Nuclear Research of information relating to the design, construction, and operation of the reactor and its use as a research tool, health and safety problems connected with the operation and use of the reactor, and the use of radioactive isotopes produced in the reactor.

No restricted data would be communicated to the Government of Switzerland under the proposed agreement; however, the United States Atomic Energy Commission would lease to the Swiss Commission for Nuclear Research as initial and replacement fuel in the operation of the research reactor up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the United States Commission, is necessary to permit the efficient and continuous operation of the reactor while

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replaced fuel elements are radioactively cooling in Switzerland or while fuel elements are in transit.

Your letter, recommending approval of the proposed agreement, states the opinion of the Atomic Energy Commission that the proposed agreement is an important and desirable step in advancing the development of the peaceful uses of atomic energy in Switzerland.

Accordingly, pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of Switzerland concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XX

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25 D. C., July 7, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Oriental Republic of Uruguay;
2. A letter from the Commission to the President, recommending his approval of the proposed agreement;
3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Uruguay on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Uruguay, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Uruguay. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Uruguay up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Uruguay or while fuel elements are in transit. The amount of special nuclear material which would be made available to Uruguay under this agreement would not be important from the military point of view and the limitation expressed will restrict Uruguay in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Uruguay to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Uruguay.

Sincerely yours,

LEWIS L. STRAUSS, *Chairman.*

AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ORIENTAL REPUBLIC OF URUGUAY CONCERNING CIVIL USES OF ATOMIC ENERGY

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Oriental Republic of Uruguay desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Oriental Republic of Uruguay desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Oriental Republic of Uruguay in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the Parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Oriental Republic of Uruguay uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Oriental Republic of Uruguay, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Oriental Republic of Uruguay uranium enriched in the isotope U–235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Oriental Republic of Uruguay may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Oriental Republic of Uruguay shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Oriental Republic of Uruguay to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U–235 transferred by the Commission and in the custody of the Government of the Oriental Republic of Uruguay shall not at any time be in excess of six (6) kilograms of contained U–235 in uranium enriched up to a maximum of twenty percent (20%) U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Uruguay or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

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C. When any fuel elements containing U–235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U–235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Oriental Republic of Uruguay or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Uruguay. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations in either the United States or Uruguay may deal directly with private individuals and private organizations in the other country. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Oriental Republic of Uruguay and such persons under its jurisdiction as are authorized by the Government of the Oriental Republic of Uruguay to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States and the Government of the Oriental Republic of Uruguay

ARTICLE V

Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Oriental Republic of Uruguay or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Oriental Republic of Uruguay agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U–235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Oriental Republic of Uruguay agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this Agreement by the Government of the Oriental Republic of Uruguay or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Oriental Republic of Uruguay decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Oriental Republic of Uruguay agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Oriental Republic of Uruguay will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE UNITED STATES ATOMIC ENERGY ACT OF 1954

The Government of the Oriental Republic of Uruguay guarantees that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Oriental Republic of Uruguay or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Oriental Republic of Uruguay except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on ---------- and remain in force until ----------, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of the Oriental Republic of Uruguay shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Oriental Republic of Uruguay, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the Parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the Parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Uruguay.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data", "atomic weapon", and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE at Washington in duplicate this ------ day of ----------, 1955.

For the Government of the United States of America:

EDWARD J. SPARKS,
EJS 6/24/55
Acting Assistant Secretary of State for Inter-American Affairs.

LEWIS L. STRAUSS,
LS 6/23/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Oriental Republic of Uruguay:

JOSE A. MORA,
JAM 6/24/55
Ambassador of the Oriental Republic of Uruguay.

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JULY 1, 1955.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the Oriental Republic of Uruguay and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Uruguay, in accordance with the policy which you have established. The Government of the Oriental Republic of Uruguay has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Uruguay, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Uruguay. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Uruguay up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Uruguay will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Uruguay.

Respectfully,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, July 7, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of July 1, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Oriental Republic of Uruguay and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Oriental Republic of Uruguay desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Oriental Republic of Uruguay special nuclear material for use as reactor fuel.

Pursuant to the provisions of *section 123* of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Oriental Republic of Uruguay concerning the civil uses of atomic energy,

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Uruguay, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Uruguay.

Sincerely,

DWIGHT D. EISENHOWER.

APPENDIX XXI

UNITED STATES ATOMIC ENERGY COMMISSION,
Washington 25, D. C., June 17, 1955.

Hon. CLINTON P. ANDERSON,
Chairman, Joint Committee on Atomic Energy,
Congress of the United States.

DEAR SENATOR ANDERSON: Pursuant to section 123c of the Atomic Energy Act of 1954, there are submitted with this letter certified copies of the following:

1. A proposed agreement for cooperation with the Government of the Republic of Venezuela;
2. A letter from the Commission to the President, recommending his approval of the proposed agreement;
3. A letter from the President to the Commission, approving the proposed agreement, authorizing its execution, and containing his determination that it will promote and will not constitute an unreasonable risk to the common defense and security.

This agreement, when executed, would make possible cooperation between the United States and Venezuela on the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Venezuela, if it desired to do so, would be able to engage United States companies to construct research reactors, and private industries in the United States will be permitted, within the limits of the agreement, to render other assistance to Venezuela. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Venezuela up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Venezuela or while fuel elements are in transit. The amount of special nuclear material which would be made available to Venezuela under this agreement would not be important from the military point of view and the limitation expressed will restrict Venezuela in determining the choice of reactor to be constructed to a research reactor.

Article VI of the proposed agreement records the obligations undertaken by Venezuela to safeguard the special nuclear material to be leased by the Commission, and article VII contains the guaranties prescribed by section 123 of the Atomic Energy Act.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation will lead to further development of the peaceful uses of atomic energy in Venezuela.

Sincerely yours,

LEWIS, L. STRAUSS, *Chairman.*

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AGREEMENT FOR COOPERATION CONCERNING CIVIL USES OF ATOMIC ENERGY BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA

WHEREAS the peaceful uses of atomic energy hold great promise for all mankind; and

WHEREAS the Government of the United States of America and the Government of the Republic of Venezuela desire to cooperate with each other in the development of such peaceful uses of atomic energy; and

WHEREAS there is well advanced the design and development of several types of research reactors (as defined in Article X of this Agreement); and

WHEREAS research reactors are useful in the production of research quantities of radioisotopes, in medical therapy and in numerous other research activities and at the same time are a means of affording valuable training and experience in nuclear science and engineering useful in the development of other peaceful uses of atomic energy including civilian nuclear power; and

WHEREAS the Government of the Republic of Venezuela has established, under Decrees No. 97 and 98 signed on April 29th, 1954, by Colonel Marcos Perez Jimenez, President of Venezuela, the autonomous "Institute of Neurology and Brain Research," and now wishes to equip said Institute with a medical and research reactor; and

WHEREAS the Government of the Republic of Venezuela desires to pursue a research and development program looking toward the realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States of America and United States industry with respect to this program; and

WHEREAS the Government of the United States of America, represented by the United States Atomic Energy Commission (hereinafter referred to as the "Commission"), desires to assist the Government of the Republic of Venezuela in such a program;

THE PARTIES THEREFORE AGREE AS FOLLOWS:

ARTICLE I

Subject to the limitations of Article V, the parties hereto will exchange information in the following fields:

A. Design, construction and operation of research reactors and their use as research, development, and engineering tools and in medical therapy.

B. Health and safety problems related to the operation and use of research reactors.

C. The use of radioactive isotopes in physical and biological research, medical therapy, agriculture, and industry.

ARTICLE II

A. The Commission will lease to the Government of the Republic of Venezuela uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of research reactors which the Government of the Republic of Venezuela, in consultation with the Commission, decides to construct and as required in agreed experiments related thereto. Also, the Commission will lease to the Government of the Republic of Venezuela uranium enriched in the isotope U-235, subject to the terms and conditions provided herein, as may be required as initial and replacement fuel in the operation of such research reactors as the Government of the Republic of Venezuela may, in consultation with the Commission, decide to authorize private individuals or private organizations under its jurisdiction to construct and operate, provided the Government of the Republic of Venezuela shall at all times maintain sufficient control of the material and the operation of the reactor to enable the Government of the Republic of Venezuela to comply with the provisions of this Agreement and the applicable provisions of the lease arrangement.

B. The quantity of uranium enriched in the isotope U-235 transferred by the Commission and in the custody of the Government of the Republic of Venezuela shall not at any time be in excess of six (6) kilograms of contained U-235 in uranium enriched up to a maximum of twenty percent (20%) U-235, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of the reactor or reactors while replaced fuel elements are radioactively cooling in Venezuela or while fuel elements are in transit, it being the intent of the Commission to make possible the maximum usefulness of the six (6) kilograms of said material.

C. When any fuel elements containing U-235 leased by the Commission require replacement, they shall be returned to the Commission and, except as may be agreed, the form and content of the irradiated fuel elements shall not be altered after their removal from the reactor and prior to delivery to the Commission.

D. The lease of uranium enriched in the isotope U-235 under this Article shall be at such charges and on such terms and conditions with respect to shipment and delivery as may be mutually agreed and under the conditions stated in Articles VI and VII.

ARTICLE III

Subject to the availability of supply and as may be mutually agreed, the Commission will sell or lease through such means as it deems appropriate, to the Government of the Republic of Venezuela or authorized persons under its jurisdiction such reactor materials, other than special nuclear materials, as are not obtainable on the commercial market and which are required in the construction and operation of research reactors in Venezuela. The sale or lease of these materials shall be on such terms as may be agreed.

ARTICLE IV

It is contemplated that, as provided in this Article, private individuals and private organizations of the United States may deal directly with the Government of the Republic of Venezuela and with those private organizations and with those private individuals which the Government of the Republic of Venezuela may authorize. Accordingly, with respect to the subjects of agreed exchange of information as provided in Article I, the Government of the United States will permit persons under its jurisdiction to transfer and export materials, including equipment and devices, to, and perform services for, the Government of the Republic of Venezuela and such persons under its jurisdiction as are authorized by the Government of the Republic of Venezuela to receive and possess such materials and utilize such services, subject to:

A. Limitations in Article V.

B. Applicable laws, regulations and license requirements of the Government of the United States, and the Government of the Republic of Venezuela.

ARTICLE V

Restricted Data shall not be communicated under this Agreement and no materials or equipment and devices shall be transferred and no services shall be furnished under this Agreement to the Government of the Republic of Venezuela or authorized persons under its jurisdiction if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

ARTICLE VI

A. The Government of the Republic of Venezuela agrees to maintain such safeguards as are necessary to assure that the uranium enriched in the isotope U-235 leased from the Commission shall be used solely for the purpose agreed in accordance with this Agreement and to assure the safekeeping of this material.

B. The Government of the Republic of Venezuela agrees to maintain such safeguards as are necessary to assure that all other reactor materials, including equipment and devices, purchased in the United States of America under this

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Agreement by the Government of the Republic of Venezuela or authorized persons under its jurisdiction, shall be used solely for the design, construction, and operation of research reactors which the Government of the Republic of Venezuela decides to construct and operate and for research in connection therewith, except as may otherwise be agreed.

C. In regard to research reactors constructed pursuant to this Agreement the Government of the Republic of Venezuela agrees to maintain records relating to power levels of operation and burn-up of reactor fuels and to make annual reports to the Commission on these subjects. If the Commission requests, the Government of the Republic of Venezuela will permit Commission representatives to observe from time to time the condition and use of any leased material and to observe the performance of the reactor in which the material is used.

ARTICLE VII—GUARANTIES PRESCRIBED BY THE U. S. ATOMIC ENERGY ACT OF 1954

The Government of the Republic of Venezuela guaranties that:

A. Safeguards provided in Article VI shall be maintained.

B. No material, including equipment and devices, transferred to the Government of the Republic of Venezuela or authorized persons under its jurisdiction, pursuant to this Agreement, by lease, sale, or otherwise will be used for atomic weapons or for research on or development of atomic weapons or for any other military purposes, and that no such material, including equipment and devices, will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of Venezuela except as the Commission may agree to such transfer to another nation and then only if in the opinion of the Commission such transfer falls within the scope of an agreement for cooperation between the United States and the other nation.

ARTICLE VIII

This Agreement shall enter into force on _____ and remain in force until _____, inclusively, and shall be subject to renewal as may be mutually agreed.

At the expiration of this Agreement or an extension thereof the Government of the Republic of Venezuela shall deliver to the United States all fuel elements containing reactor fuels leased by the Commission and any other fuel material leased by the Commission. Such fuel elements and such fuel materials shall be delivered to the Commission at a site in the United States designated by the Commission at the expense of the Government of the Republic of Venezuela, and such delivery shall be made under appropriate safeguards against radiation hazards while in transit.

ARTICLE IX

It is the hope and expectation of the parties that this initial Agreement for Cooperation will lead to consideration of further cooperation extending to the design, construction, and operation of power producing reactors. Accordingly, the parties will consult with each other from time to time concerning the feasibility of an additional agreement for cooperation with respect to the production of power from atomic energy in Venezuela.

ARTICLE X

For the purposes of this Agreement:

A. "Commission" means the United States Atomic Energy Commission or its duly authorized representatives.

B. "Equipment and devices" means any instrument or apparatus, and includes research reactors, as defined herein, and their component parts.

C. "Research reactor" means a reactor which is designed for the production of neutrons and other radiations for general research and development purposes, medical therapy, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear materials.

D. The terms "Restricted Data," "atomic weapon," and "special nuclear material" are used in this Agreement as defined in the United States Atomic Energy Act of 1954.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to duly constituted authority.

DONE AT ---------- in duplicate this ------ day of ------, 1955.

For the Government of the United States of America:

HENRY F. HOLLAND,
H. F. H. 6/14/55
Assistant Secretary of State for Inter-American Affairs.
LEWIS L. STRAUSS,
LS 6/14/55
Chairman, U. S. Atomic Energy Commission.

For the Government of the Republic of Venezuela:

CESAR GONZALEZ,
CG 6/14/55
Ambassador of Venezuela.

JUNE 14, 1955.

THE PRESIDENT,
The White House.

DEAR MR. PRESIDENT: The Atomic Energy Commission recommends that you approve the enclosed agreement entitled "Agreement for Cooperation Concerning Civil Uses of Atomic Energy Between the Government of the Republic of Venezuela and the Government of the United States of America," and authorize its execution after the proposed agreement has been placed before the Joint Committee on Atomic Energy in accordance with section 123c of the Atomic Energy Act of 1954. This agreement has been negotiated by the Atomic Energy Commission and the Department of State pursuant to the Atomic Energy Act of 1954 and is, in the opinion of the Commission, an important and desirable step in advancing the development of the peaceful uses of atomic energy in Venezuela, in accordance with the policy which you have established. The Government of the Republic of Venezuela has signified its agreement to the guaranties prescribed by the Atomic Energy Act and which are recorded in the proposed agreement.

The proposed agreement calls for cooperation with respect to the design, construction and operation of research reactors, including related health and safety problems; the use of such reactors in medical therapy; and the use of radioactive isotopes in biology, medicine, agriculture, and industry. Under the agreement Venezuela, if it desires to do so, may engage United States companies to construct research reactors, and private industry in the United States will be permitted, within the limits of the agreement, to render other assistance to Venezuela. No restricted data would be communicated under this agreement. The Atomic Energy Commission, however, would lease to Venezuela up to 6 kilograms of contained U–235 in uranium enriched up to a maximum of 20 percent U–235.

The agreement expresses the hope and expectation of the two Governments that this first stage of cooperation between the United States and Venezuela will lead to further discussions and agreements relating to the peaceful uses of atomic energy in Venezuela.

Respectfully yours,

LEWIS L. STRAUSS, *Chairman.*

THE WHITE HOUSE,
Washington, D. C., June 16, 1955.

The Honorable L. L. STRAUSS,
Chairman, Atomic Energy Commission,
Washington, D. C.

DEAR MR. STRAUSS: Under date of June 14, 1955, you informed me that the Atomic Energy Commission had recommended that I approve a proposed agreement between the Government of the Republic of Venezuela and the Government of the United States for cooperation concerning the peaceful uses of atomic energy. The agreement recites that the Government of the Republic of Venezuela desires to pursue a research and development program looking toward the

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realization of the peaceful and humanitarian uses of atomic energy and desires to obtain assistance from the Government of the United States and United States industry with respect to this program.

I have examined the agreement recommended. It calls for cooperation between the two Governments with respect to the design, construction, and operation of research reactors, including related health and safety problems; the use of such reactors as research, development, and engineering tools and in medical therapy; and use of radioactive isotopes in biology, medicine, agriculture, and industry. The agreement contains all of the guaranties prescribed by the Atomic Energy Act. No restricted data would be communicated under the agreement, but the Commission would lease to the Republic of Venezuela special nuclear material for use as reactor fuel.

Pursuant to the provisions of section 123 of the Atomic Energy Act of 1954 and upon the recommendation of the Atomic Energy Commission, I hereby—

(1) Approve the within proposed agreement for cooperation between the Government of the United States and the Government of the Republic of Venezuela concerning the civil uses of atomic energy.

(2) Determine that the performance of the proposed agreement will promote and will not constitute an unreasonable risk to the common defense and security of the United States, and

(3) Authorize the execution of the proposed agreement for the Government of the United States by appropriate authorities of the United States Atomic Energy Commission and the Department of State after the proposed agreement has been submitted to the Joint Committee on Atomic Energy of the United States Congress and a period of 30 days has elapsed while Congress is in session.

It is my hope that this agreement represents but the first stage of cooperation in the field of atomic energy between the United States and Venezuela, and that it will lead to further discussions and agreements relating to other peaceful uses of atomic energy in Venezuela.

Sincerely,

DWIGHT D. EISENHOWER.

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Calendar No. 1213

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1198

AUTHORIZING THE ATOMIC ENERGY COMMISSION TO PAY THE SALARY OF A COMMISSIONER DURING THE RECESS OF THE SENATE

JULY 28, 1955.—Ordered to be printed

Mr. ANDERSON, from the Joint Committee on Atomic Energy, submitted the following

REPORT

[To accompany S. 2671]

The Joint Committee on Atomic Energy, having considered S. 2671, an original committee bill, to authorize the Atomic Energy Commission to pay the salary of a Commissioner during the recess of the Senate, and for other purposes, do unanimously report favorably thereon and recommend the bill do pass.

The Atomic Energy Commission has been operating for a long period of time with less than the five Commissioners called for by statute. The nomination of Allen Whitfield to be a fifth member of the Commission was withdrawn about July 7. While the Joint Committee believes that another name should have been submitted before the end of the current session of Congress, nonetheless it believes in the best interests of the Commission that the President be authorized to appoint a fifth commissioner who would draw full salary during the recess. Any other arrangement could have materially handicapped the President in his freedom to select the best qualified man without reference to his ability to live without salary during recess period.

In addition, the bill includes an amendment to the section of the Atomic Energy Act relating to the duties of the members of the Commission. The modification requires each member of the Commission to have full access to all information relating to the performance of his duties or responsibilities. This sets forth in statutory language the intent of the legislation.

74003°—57 S. Rept., 84-1, vol. 3——62

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill accompanying this report are shown as follows (new matter is printed in italics):

SEC. 3. The fifth sentence of section 21 of the Atomic Energy Act of 1954 is amended to read as follows: "Each member of the Commission, including the Chairman shall have equal responsibility and authority in all decisions and actions of the Commission, *shall have full access to all information relating to the performance of his duties or responsibilities*, and shall have one vote."

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Calendar No. 1214

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1199

SALES OF SURPLUS COTTON FOR UNRESTRICTED USE

JULY 28, 1955.—Ordered to be printed

Mr. EASTLAND, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 2446]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 2446) to permit sale of Commodity Credit Corporation stocks of cotton that are in excess supply for unrestricted use at current market prices, having considered the same, report thereon with a recommendation that it do pass with an amendment in the nature of a substitute.

The committee substitute would permit the Commodity Credit Corporation to sell certain surplus cotton for practically unrestricted use at market prices during the 1955–56 marketing year. The quantity of any quality or qualities of cotton which could be so sold would be limited to the excess of the quantity thereof on hand in the United States on August 1, 1955, over 50 percent of the requirements therefor for the marketing year. Without this bill these surplus stocks could not be sold for less than 105 percent of the current support price, plus reasonable carrying charges, as provided by section 407 of the Agricultural Act of 1949, unless sold for export or other special excepted purposes.

The committee substitute differs from the bill as introduced in only two material respects. First, it has been limited in effect to the 1955–56 marketing year, since your committee is currently making a thorough study of the price-support program but believes that this legislation is needed at this time at least on a trial basis. Second, in order to avoid undue interference with the operations of the futures markets, the committee substitute would not permit cotton sold under the authority of the bill to be tendered under any futures contract.

DEPARTMENTAL VIEWS

DEPARTMENT OF AGRICULTURE,
Washington, D. C., July 14, 1955.

Hon. ALLEN J. ELLENDER,
Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: This is in reply to your request for a report on S. 2446, a bill to permit sale of Commodity Credit Corporation stocks of cotton that are in excess supply for unrestricted use at current market prices.

The Department recommends that the bill be enacted as introduced.

The bill provides that when the quantity of a particular quality or group of qualities of cotton in the United States on August 1 of any year exceeds 50 percent of the estimated domestic consumption and export thereof for the ensuing marketing year, Commodity Credit Corporation would be authorized to sell from its stocks during such marketing year for unrestricted use at the current domestic market price a quantity of such quality or group of qualities of cotton not in excess of the difference between such quantity on August 1 and 50 percent of such estimated domestic consumption and export.

Current legislation prohibits the Commodity Credit Corporation from selling cotton or any other basic agricultural commodity or storable nonbasic commodity for unrestricted use at less than 105 percent of the current support price plus reasonable carrying charges. Therefore, the bill would have the effect of removing this minimum sales price restriction with respect to qualities or groups of qualities whose supply at the beginning of a marketing year is in excess of 50 percent of the estimated disappearance of the qualities during such marketing year, provided that the sales are limited to the difference between the beginning stocks and 50 percent of such estimated disappearance. In other words sales so defined could be made at the current market price even though such price might be lower than 105 percent of the current support level.

The proposed provision would be very helpful to the Department in the management of its cotton inventories. The additional discretionary authority would make it possible to dispose of qualities or groups of qualities in CCC inventory that are in heavy supply and which have found refuge in Government stocks because they were not in demand at prices equal to the present legal minimum.

The provision would also be helpful in equalizing or balancing the qualities in total stocks by making it possible to move into domestic consumption or export those qualities that are in relatively heavy supply. To the extent that cotton becomes more competitive through this means, increased utilization would be encouraged without resort to a two-price system of marketing. The bill would still protect adequate supplies of these qualities, since sales thereunder could not be made so as to reduce the total supply of the qualities involved below a quantity equal to 6 months' requirements plus production of the qualities from the current crop.

We believe that the proposed legislation would also have a tendency to bring about more realistic market price differentials among qualities. Sales of the qualities in relatively heavy supply would naturally cause the prices of these qualities to adjust to a level more nearly in line with their true relative value. These adjustments would in turn be reflected in future loan program quality differentials, which in their turn would tend to influence future price differentials in the market. In this way, the utilization of these qualities would be encouraged and their production discouraged.

To the extent that total utilization of cotton might be increased, the outlay of CCC capital funds as well as Government storage costs would be reduced.

In view of the request that this report be submitted immediately, we have not obtained advice from the Bureau of the Budget as to the relationship of this proposed legislation to the program of the President.

Sincerely yours,

J. A. MCCONNELL,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black

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brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

AGRICULTURAL ACT OF 1949, AS AMENDED

* * * * * * *

RESTRICTIONS ON SALES BY CCC

SEC. 407. The Commodity Credit Corporation may sell any farm commodity owned or controlled by it at any price not prohibited by this section. In determining sales policies for basic agricultural commodities or storable nonbasic commodities, the Corporation should give consideration to the establishing of such policies with respect to prices, terms, and conditions as it determines will not discourage or deter manufacturers, processors, and dealers from acquiring and carrying normal inventories of the commodity of the current crop. The Corporation shall not sell any basic agricultural commodity or storable nonbasic commodity at less than 5 per centum above the current support price for such commodity, plus reasonable carrying charges. The foregoing restrictions shall not apply to (A) sales for new or byproduct uses; (B) sales of peanuts and oilseeds for the extraction of oil; (C) sales for seed or feed if such sales will not substantially impair any price-support program; (D) sales of commodities which have substantially deteriorated in quality or as to which there is a danger of loss or waste through deterioration or spoilage; (E) sales for the purpose of establishing claims arising out of contract or against persons who have committed fraud, misrepresentation, or other wrongful acts with respect to the commodity; (F) sales for export; (G) sales of wool; and (H) sales for other than primary uses. Notwithstanding the foregoing, the Corporation, on such terms and conditions as the Secretary may deem in the public interest, shall make available any farm commodity or product thereof owned or controlled by it for use in relieving distress (1) in any area in the United States declared by the President to be an acute distress area because of unemployment or other economic cause if the President finds that such use will not displace or interfere with normal marketing of agricultural commodities and (2) in connection with any major disaster determined by the President to warrant assistance by the Federal Government under Public Law 875, Eighty-first Congress, as amended (42 U. S. C. 1855). Except on a reimbursable basis, the Corporation shall not bear any costs in connection with making such commodity available beyond the cost of the commodities to the Corporation in store and the handling and transportation costs in making delivery of the commodity to designated agencies at one or more central locations in each State. Nor shall the foregoing restrictions apply to sales of commodities the disposition of which is desirable in the interest of the effective and efficient conduct of the Corporation's operations because of the small quantities involved, or because of age, location or questionable continued storability, but such sales shall be offset by such purchases of commodities as the Corporation determines are necessary to prevent such sales from substantially impairing any price-support programs, but in no event shall the purchase price exceed the then current support price for such commodities. *Notwithstanding any other provision of this section, if the quantity of a particular quality or group of qualities of cotton in the United States on August 1, 1955 exceeds 50 per centum of the estimated domestic consumption and export thereof for the 1955–1956 marketing year as determined by the Secretary of Agriculture, the Corporation may sell from its owned stocks during such marketing year at the current market price in the United States for unrestricted use (other than for purposes of tender under a future contract on any exchange or board of trade) a quantity of such quality or group of qualities of cotton not in excess of the difference between such quantity on August 1 and 50 per centum of such estimated domestic consumption and export.*

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Calendar No. 1215

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1200

BORROWING POWER OF THE COMMODITY CREDIT CORPORATION

JULY 28, 1955.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 2604]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 2604) to increase the borrowing power of the Commodity Credit Corporation, having considered the same, report thereon with the recommendation that it do pass without amendment.

The bill increases the borrowing power of the Commodity Credit Corporation to $12 billion. On June 15, 1955, the Department of Agriculture advised the committee that it might be necessary to request additional borrowing authority depending upon the outcome of this year's crop. Following the crop report as of July 1, the Department requested enactment of S. 2604 under date of July 20. Officials of the Department and the Corporation appeared before the committee to corroborate the need for this increase in borrowing power. This increase is necessary to enable the Corporation to carry out existing commitments for price support on 1955 crops and cover the investment of the Government resulting from 1954 and prior-crop operations.

Current estimates made by the Department after release of the July crop report on July 11, 1955, indicate that the present borrowing power of the Corporation will be exceeded in November 1955 and that the peak use of borrowing power in the fiscal year 1956 will occur in February and amount to between $11.1 and $12.6 billion. The high side of this range is based on assumption of record yields, record quantities placed under price support and considerably reduced proceeds from repayments and sales. Since it is considered unlikely that all of these circumstances will occur, the Department recommended an increase to $12 billion. Your committee agrees with this recommendation, recognizing the impossibility of predicting future commitments with any degree of accuracy because of the many uncontrollable and unpredictable factors; such as weather, price movements, and exports, which are involved.

The Department estimated that as of June 30, 1955, the Commodity Credit Corporation had in use $8 billion of its authorized borrowing power. This amount was $2.5 billion larger than the borrowing power in use on June 30, a year earlier. The amount of borrowing power in use as of June 30, 1955, of course, does not yet reflect the movement of 1955 crops under the price-support program. The amount and timing of the price-support loans and purchases of 1955 crops, less proceeds received from repayments of loans and sales of inventories, are the major factors which determine when and how much borrowing power will be required.

The Government has committed itself to provide price support for agricultural commodities under the terms and conditions laid down in specific legislation enacted by the Congress. Accordingly, it is necessary to provide the Commodity Credit Corporation sufficient borrowing power to enable it to carry out these commitments. Your committee recommends, therefore, that the Corporation's borrowing power be increased at this time to $12 billion.

The letters from the Department of Agriculture dated June 15 and June 20, 1955, are attached below. Also attached as a part of this report is a table showing the estimates of borrowing power in use by months in the fiscal year 1955, and a table showing the summary of changes in statutory borrowing authority in use for the 1955 and 1956 fiscal years.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., June 15, 1955.

Hon. ALLEN J. ELLENDER, Sr.,
Chairman, Committee on Agriculture and Forestry,
United States Senate.

DEAR SENATOR ELLENDER: On the basis of the economic assumptions as set forth in the 1956 budget estimate for the Commodity Credit Corporation, and the resultant estimated volume of price support and related activities, the Department has recently prepared a monthly projection of the use of the borrowing authority of the CCC through June 30, 1956.

These projections are reflected in the attached statement showing the status of the Corporation's borrowing authorization at the end of each month of the fiscal years 1955 and 1956. The statement also sets forth the specific assumed economic factors upon which the budget estimates were predicated. It will be noted that the estimates indicate that the present borrowing power of $10 billion will be exceeded in December 1955 and that a peak of $10.8 billion in obligations will occur in February 1956—$600 million more than the Corporation's borrowing authority.

Since the estimates are based upon a number of factors such as market prices, weather, exports and economic conditions generally, each of which is variable as well as unpredictable, they must be regarded as highly tentative and subject to widely fluctuating changes. There are several specific aspects of their composition which should be fully recognized, particularly with respect to the fiscal year 1956.

(1) The bulk of the 1955 crops have not been harvested and the estimated production from these crops is predicated upon yields per acre in line with recent averages. With acreage controls in effect for several major crops, conditions are conducive to producers obtaining abnormal and even record yields per acre. Such excess production would tend to enter price support and increase the use of the Corporation's borrowing authority accordingly.

(2) As indicated in the attached statement, these estimates assume increased exports and a continued stable general price level and economic conditions. Any departure from these relatively favorable conditions to more unfavorable economic activity would immediately reflect itself in the agricultural economy and result in increased quantities of commodities being placed under price support and smaller dispositions from inventories of the Corporation.

(3) The estimates assume the continuance of existing legislation. A number of the pending legislative proposals have a direct influence upon the use of the

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borrowing authority of the Corporation. For example it has been estimated that the enactment of H. R. 12, to amend the Agricultural Act of 1949, as amended, with respect to price supports for basic commodities, would increase the use of the Corporation's borrowing authority by nearly $247 million.

Therefore, it is believed that these estimates represent conservative rather than liberal projections of the volume of price support activity. It will be recalled that last July when Congress was considering the proposed increase in the borrowing authority of the Corporation from $8 5 to $10 billion, there were two types of estimates prepared reflecting the estimated use of borrowing authority through June 30, 1955, based on the July 9, 1954, crop report. The first type, based upon normal conditions, similar to these supporting the attached statement, indicated the estimated peak use of borrowing authority to be $8.4 billion. This was expected to occur in January and February 1955. The second type, based upon conditions which would result in greater use of borrowing power, including situations such as those described in (1) and (2) above, indicated an estimated peak use of borrowing authority of $9.8 billion. The Department has not yet made estimates for the fiscal year 1956 similar to the second type prepared last year for 1955, but it may be assumed that the margin of difference in 1956 between the two types of estimates would remain approximately the same.

Although there were instances of record production, record yields per acre, and record quantities placed under support with respect to certain of the 1954 crops, the general agricultural situation which materialized must be regarded as falling more nearly within the assumptions described under the first type of estimates. Against the peak use of borrowing authority of $8.4 billion estimated last year to occur in January and February 1955, actual borrowing authority in use as of January 31, 1955, and February 28, 1955, was $8.2 billion and $8.4 billion, respectively. Comparing the estimates made last summer with certain actual operations through February 28, 1955, loans made were overestimated by $390 million, loan repayments were overestimated by $325 million, and sales were underestimated by $230 million. Other types of estimated obligations and receipts were also at variance with actual operations. The net result, however, of the combination of under- and over-estimating was quite close to the original projection.

Of more significance, however, is the radical departure of actual circumstances as of March 31 and current estimates from the previous estimates for March 31, 1955, and the balance of this fiscal year.

Actual borrowing authority in use as of March 31, 1955, was $8.5 billion compared with previous estimates of $8.1 billion. In addition, we had formerly estimated a decline of about $200 million in borrowing authority in use during the period March 31 through June 30, 1955, and it is now estimated that borrowing power in use will increase by about $200 million during this period—a further increase of approximately $400 million. Most of these changes are accounted for by the fact that repayments of wheat and cotton loans and sales of wheat are not expected to materialize to the extent previously anticipated.

Current estimates for the fiscal year 1956 are that from a June 30, 1955, level of $8.7 billion, obligations will reach a peak of $10.6 billion in February 1956, and taper off to $9.9 billion by June 30, 1956. The estimated increase of $1.9 billion between June 30, 1955, and February 29, 1956, and the decrease of $.7 billion between February 29 and June 30, 1956 are anticipated to consist of:

[Millions of dollars]

Activity	Increase June 30, 1955–Feb. 29, 1956	Decrease Feb. 29, 1956–June 30, 1956
Obligations:		
Loans made	$1,951	$239
Purchases	250	150
Carrying charges	248	266
Other	783	390
Total obligations	3,232	1,045
Receipts:		
Loan repayments	342	609
Sales	779	1,062
Other	230	30
Total receipts	1,351	1,701
Net increase or decrease	1,881	656

During the course of the hearings last year, it was stated that it was the belief of representatives of this Department that a borrowing power of $10 billion would enable the Corporation to complete 1954 crop operations and operate until 1955 crops started to move in the next year. Under normal conditions, and using the assumptions upon which the 1956 budget estimates were predicated, it appears that the $10 billion borrowing authority will be insufficient for the 1955 crops by approximately $600 million. Under the more favorable assumptions referred to above, the borrowing authority would be insufficient by approximately $2 billion.

The report of the Department released March 18, 1955, reflecting prospective plantings for 1955 in the overall, contains no estimates which would greatly change the estimates of crop production upon which the 1956 budget estimates were predicated. Here again, however, estimated production is based upon recent average yields per planted acre. The crop production report for June 1955 indicated further revision in the estimated production from the 1955 crop of wheat and contained the first estimate of the production of rye on the basis of current conditions. The comparison of these latest estimates of production with the production upon which the budget estimates were predicated is remarkably close, as shown below:

Commodity	Budget estimate	June crop report
Wheat.....bushels..	850,000,000	845,000,000
Rye.....do....	26,000,000	25,800,000

The crop production report for July will contain more reliable information regarding production from the 1955 crops. At that time the Department will be in a better position to appraise the potential use of the Corporation's borrowing authority and the amount of the increase needed. We are hopeful that our proposal for legislative action can be deferred until mid-July.

An important factor in the availability of borrowing power over the period through June 30, 1956, is the amount of losses sustained by the Corporation. It now appears that realized losses of the Corporation may aggregate $1 billion during the fiscal year 1955. Other reimbursable expenses of the Corporation incurred during the fiscal year 1955 for such programs as the International Wheat Agreement and dispositions under the Agricultural Trade Development and Assistance Act may total another $0.5 billion. Restoration of the capital impairment and reimbursement of these amounts will be requested in the 1957 budget, but borrowing authority would not be affected until the funds actually became available to the Corporation, probably in July 1956.

It is not the purpose of this letter to recommend any legislative action with respect to the borrowing authority of the Commodity Credit Corporation at this time. Rather, it is in the nature of a report of current and estimated status of the Corporation's borrowing authority. Your committee may wish to consider how best to deal with the situation that is developing.

If you have need for additional information or questions concerning this subject, we shall be happy to furnish it. We will advise you further, not later than the week following the release of the July 10 crop report.

Sincerely yours,

TRUE D. MORSE, *Acting Secretary.*

Attachment.

UNIVERSITY OF MICHIGAN LIBRARIES

Commodity Credit Corporation—Status of statutory borrowing authorization (actual July to March 1955; estimated for remaining months)

[Billions of dollars]

Month	Fiscal year 1955		Fiscal year 1956	
	In use at end of month	Available for new or expanded activities	In use at end of month	Available for new or expanded activities
July	6.182	[1] 2.318	8.585	1.415
August	6.708	[1] 3.292	8.765	1.235
September	6.883	3.117	9.012	.988
October	7.208	2.792	9.336	.664
November	7.545	2.455	9.730	.270
December	7.878	2.122	10.062	−.062
January	8.206	1.794	10.413	−.413
February	8.395	1.605	10.560	−.560
March	8.459	1.541	10.537	−.537
April	8.532	1.468	10.327	−.327
May	8.564	1.436	10.082	−.082
June	8.679	1.321	9.904	.096

[1] Statutory borrowing authorization was increased from $8.5 billion to $10 billion effective Aug. 31, 1954.

NOTE.—The estimates have been prepared on the following assumptions used in the 1956 budget—

(*a*) that employment, production, and national income will rise moderately from the level of the 2d quarter of the calendar year 1954;

(*b*) that prices will change little, on the average, from the present level;

(*c*) that developments in international relations will not be such as to affect Government civilian programs generally;

(*d*) that exports of agricultural products will be higher than at present;

(*e*) that yields will be in line with recent averages; and

(*f*) that acreage allotments and marketing quotas will be in effect for the 1955 crops of peanuts, certain kinds of tobacco, wheat and cotton, and acreage allotments will be in effect for the 1955 crops of corn and rice in accordance with existing legislation.

DEPARTMENT OF AGRICULTURE,
Washington, D. C., July 20, 1955.

The PRESIDENT OF THE SENATE,
United States Senate.

DEAR MR. PRESIDENT: This Department recommends the enactment of legislation to increase the borrowing authority of the Commodity Credit Corporation from $10 billion to $12 billion.

There is attached a copy of a letter dated June 15, 1955, which was addressed to the chairmen of the House Banking and Currency Committee, the Senate Committee on Agriculture and Forestry, and the House Committee on Agriculture, and the Director, Bureau of the Budget, advising them as to the situation at that time with respect to the borrowing authorization of the Commodity Credit Corporation.

In this letter it was indicated that the outlook at that time was for obligations to exceed the Corporation's borrowing power of $10 billion by December 1955, and a peak use of borrowing power of $10.6 billion by February 1956. It was also indicated that a legislative proposal would be made after release of the July crop report made it possible for a reappraisal of the estimates.

The crop report released on July 11 indicated our earlier estimates to be conservative, in view of the fact this report predicts total 1955 crop production to be the second highest of record. Feed grain production will include near record crops of corn and oats, a record barley crop and a potential record crop of sorghums. Although we have not yet formulated complete estimates of the effects of such crop production on the price-support operations of the Commodity Credit Corporation, it is apparent that more borrowing power will be required to complete 1955 crop price-support operations than indicated by our earlier estimates. A rough approximation on the basis that all of the additional production now estimated will be placed under price support makes it apparent that between 1 and 2 billion dollars additional borrowing power will be required.

It is therefore our recommendation that the borrowing power of the Commodity Credit Corporation be increased to $12 billion before the current session of Congress adjourns. A major factor resulting in this request is the cumulative effect of mandatory rigid price supports on 1954 and prior-year crops. The Agricultural Act of 1954 prescribed a gradual transition to a flexible support sys-

tem, but for 1955 crops the degree of flexibility is restricted. Consequently, the new legislation will not greatly affect the use of borrowing power in the fiscal year 1956.

There is attached a draft of a bill embodying the necessary amendments to existing legislation to accomplish an increase in the borrowing authority.

The Bureau of the Budget advises that there is no objection to the submission of this proposed legislation to the Congress for its consideration.

Sincerely yours,

TRUE D. MORSE,
Acting Secretary.

Attachments—2.

Commodity Credit Corporation—Estimates (based on July 11, 1955, crop report),[1] of borrowing power in use,[2] by months, July 1, 1955, through June 30, 1956

(Billions of dollars)

1955—June	8.660	1956—January	10.898
July	8.613	February	[3] 11.057
August	8.862	March	11.024
September	9.174	April	10.787
October	9.583	May	10.527
November	10.050	June	10.308
December	10.473		

[1] The estimates have been prepared on the following assumptions used in the 1956 Budget and have been revised to reflect production estimates indicated in the July 11, 1955, crop report:
(a) that employment, production, and national income will rise moderately from the level of the second quarter of the calendar year 1954;
(b) that prices will change little, on the average, from the present level;
(c) that developments in international relations will not be such as to affect Government civilian programs generally;
(d) that exports of agricultural products will be higher than at present;
(e) that yields will be in line with recent averages; and
(f) that acreage allotments and marketing quotas will be in effect for the 1955 crops of peanuts, certain kinds of tobacco, wheat and cotton, and acreage allotments will be in effect for the 1955 crops of corn and rice in accordance with existing legislation.
[2] Actual borrowings plus obligations to purchase loans held by banks.
[3] Assuming record yields, record percentage of crops under price support, and smaller receipts from sales and repayments, it is estimated that $1.550 billion additional borrowing power could be in use as of the peak period, February 29, 1956.

Commodity Credit Corporation—Summary of changes in statutory borrowing authority in use

FISCAL YEAR 1955

1. As of June 30, 1955, it is estimated that the CCC had $8.660 billion of its $10 billion borrowing authority in use, consisting of: (1) Borrowings from the Treasury, $7.608 billion; (2) Loans held by lending agencies, $1.052 billion.

FISCAL YEAR 1956

2. For the fiscal year 1956 it is estimated that statutory obligations will reach a peak of $11.057 billion by February 29, 1956.

	Current estimates (millions of dollars)
A. Obligations:	
(1) Loans made:	
Corn	$431
Cotton	341
Peanuts	28
Rice	57
Tobacco	157
Wheat	666
Barley	93
Oats	48
Grain sorghums	125
All other	244
Total	2,190

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FISCAL YEAR 1956—continued

	Current estimates (millions of dollars)
A. Obligations—Continued	
(2) Purchases:	
Corn	$67
Rice	33
Dairy products	77
Storage facilities and equipment	31
All other	45
Total	253
(3) Carrying charges	251
(4) Other expenses:	
Wheat export	88
International Wheat Agreement	54
Sales for foreign currencies, title I, Public Law 480	555
Emergency assistance to friendly peoples, title II, Public Law 480	85
Interest, administrative and nonadministrative expenses	134
All other	107
Total	1,023
Total obligations	3,717
B. Receipts:	
(1) Repayments of loans:	
Cotton	95
Tobacco	80
Wheat	98
All other	91
Total	364
(2) Sales:	
Corn	82
Cotton	33
Rice	59
Wheat	220
Dairy products	29
Wool	15
Soybeans	31
Wheat export	64
All other	193
Total	726
(3) Other receipts:	
Sales for foreign currencies, Title I, Public Law 480	30
International Wheat Agreement	57
Emergency feed program	42
Emergency assistance to Pakistan	69
All other	32
Total	230
Total receipts	1,320
C. Net increase in statutory obligations	2,397

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is

enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACT OF MARCH 8, 1938, AS AMENDED

* * * * * * *

SEC. 4. With the approval of the Secretary of the Treasury, the Commodity Credit Corporation is authorized to issue and have outstanding at any one time, bonds, notes, debentures, and other similar obligations in an aggregate amount not exceeding [$10,000,000,000] *$12,000,000,000*. Such obligations shall be in such forms and denominations, shall have such maturities, shall bear such rates of interest, shall be subject to such terms and conditions, and shall be issued in such manner and sold at such prices as may be prescribed by the Commodity Credit Corporation, with the approval of the Secretary of the Treasury. Such obligations shall be fully and unconditionally guaranteed both as to interest and principal by the United States, and such guaranty shall be expressed on the face thereof, and such obligations shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. In any event that the Commodity Credit Corporation shall be unable to pay upon demand, when due, the principal of, or interest on, such obligations, the Secretary of the Treasury shall pay to the holder the amount thereof which is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such obligations. The Secretary of the Treasury, in his discretion, is authorized to purchase any obligations of the Commodity Credit Corporation issued hereunder, and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds from the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such act, as amended, are extended to include any purchases of the Commodity Credit Corporation's obligations hereunder. The Secretary of the Treasury may at any time sell any of the obligations of the Commodity Credit Corporation acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of the obligations of the Commodity Credit Corporation shall be treated as public-debt transactions of the United States. No such obligations shall be issued in excess of the assets of the Commodity Credit Corporation, including the assets to be obtained from the proceeds of such obligations, but a failure to comply with this provision shall not invalidate the obligations or the guaranty of the same: *Provided*, That this sentence shall not limit the authority of the Corporation to issue obligations for the purpose of carrying out its annual budget programs submitted to and approved by the Congress pursuant to the Government Corporation Control Act (31 U. S. C., 1946 edition, sec. 841). The Commodity Credit Corporation shall have power to purchase such obligations in the open market at any time and at any price.

* * * * * * *

COMMODITY CREDIT CORPORATION CHARTER ACT

* * * * * * *

SEC. 4. GENERAL POWERS.—The Corporation

* * * * * * *

(i) May borrow money subject to any provision of law applicable to the Corporation: *Provided*, That the total of all money borrowed by the Corporation, other than trust deposits and advances received on sales, shall not at any time exceed in the aggregate [$10,000,000,000] *$12,000,000,000*. The Corporation shall at all times reserve a sufficient amount of its authorized borrowing power which, together with other funds available to the Corporation, will enable it to purchase, in accordance with its contracts with lending agencies, notes, or other obligations evidencing loans made by such agencies under the Corporation's programs.

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UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 1216

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1201

FARM CREDIT ACT OF 1955

JULY 28, 1955.—Ordered to be printed

Mr. HOLLAND, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany H. R. 5168]

The Committee on Agriculture and Forestry, to whom was referred the bill (H. R. 5168) to provide for retirement of the Government capital in certain institutions operating under the supervision of the Farm Credit Administration; to increase borrower participation in the management and control of the Federal Farm Credit System; and for other purposes, having considered the same, report thereon with a recommendation that it do pass with an amendment.

The Farm Credit Act of 1953 required the Federal Farm Credit Board, established by that act, to study and make recommendations to Congress as to methods whereby increased borrower participation could be effected in the management, control, and ultimate ownership of institutions operating under the supervision of the Farm Credit Administration. H. R. 5168 is the result of such study and report and your committee believes it would be a forward step in the goal of having private borrowers owning and managing these credit agencies.

The Senate companion bill, S. 1286, was referred to a subcommittee which held extensive hearings and favorably reported the legislation in the form in which H. R. 5168 passed the House with the exception of one amendment. The amendment recommended by the subcommittee and approved by the full committee would specifically prohibit the present surplus and contingency reserves of the banks for cooperatives from being distributed as patronage refunds.

Attached herewith are the subcommittee report and the report of the House Committee on Agriculture which fully explain this legislation. The bill was passed by the House as reported by the Agriculture Committee.

REPORT OF THE SUBCOMMITTEE OF THE COMMITTEE ON AGRICULTURE AND FORESTRY ON H. R. 5168

Your subcommittee to whom was referred the bill (H. R. 5168) to provide for retirement of the Government capital in certain institutions operating under the supervision of the Farm Credit Administration; to increase borrower participation in the management and control of the Federal Farm Credit System; and for other purposes, having considered the same report thereon with the recommendation that it pass with an amendment.

The subcommittee amendment would insert on page 12, line 9, before the period, a colon and the following: "*Provided*, That any surplus and contingency reserves shown on the books of the banks as of the effective date of title I of the Farm Credit Act of 1955 shall not be distributed as patronage refunds".

This amendment would make it absolutely clear that no part of the surplus and contingency reserves shown on the books of the banks for cooperatives as of the date of enactment of the bill could be distributed as patronage refunds. This sum, which amounted to $81,720,003 as of December 31, 1954, was accumulated in large part through the use of interest-free money and should be maintained in the system to assure its continued stability and cushion it against the effect of such bona fide losses as might be sustained at some future time. The existence of this surplus and reserve should not be used to justify the establishment of interest rates below those otherwise required, but interest rates should be maintained at levels sufficient to assure the continued existence of this reserve fund.

The principal purpose of the bill is to provide for increased borrower participation in the Federal Farm Credit System. It would carry out the recommendations submitted to Congress by the Federal Farm Credit Board on December 8, 1954 (S. Doc. 7, 84th Cong.), pursuant to section 2 of the Farm Credit Act of 1953, except those relating to the production credit institutions which were covered by section 201 of the bill as introduced, which section was eliminated by action of the House of Representatives. The provisions eliminated were opposed by many of the witnesses who appeared before the subcommittee. The bill is fully explained in the report of the House Committee on Agriculture attached hereto.

SPESSARD L. HOLLAND,
Chairman.
CLINTON P. ANDERSON,
EARLE C. CLEMENTS,
GEORGE D. AIKEN.

[H. Rept. No. 863, 84th Cong., 1st sess.]

The Committee on Agriculture, to whom was referred the bill (H. R. 5168) to provide for retirement of the Government capital in certain institutions operating under the supervision of the Farm Credit Administration, to increase borrower participation in the management and control of the Federal farm credit system, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

Page 10, line 14, after "SEC. 103." insert "(a)".

Page 12, line 9, strike out "offective" and insert "effective".

Page 12, beginning on line 20, strike out "pro rata in accordance with the second sentence of subsection (c) of this section".

Page 13, beginning on line 19, strike out the remainder of page 13, all of page 14, and through line 2 on page 15, and insert:

(c) APPLICATION OF ASSETS ON LIQUIDATION OR DISSOLUTION.—In the case of liquidation or dissolution of any bank for cooperatives, after the payment or retirement, as the case may be, first, of all liabilities; second, of all capital stock issued before the effective date of title I of the Farm Credit Act of 1955 held by cooperative associations at par, all class A stock at par, and all class B stock at par; and third, of all class C stock at par; any surpluses and contingency reserves existing on the effective date of said title I shall be paid to the holders of outstanding capital stock issued before the effective date of said title I, class A stock and class C stock pro rata, and any remaining surplus and contingency reserves shall be distributed to those entities to which they are allocated on the books of the bank. If it should become necessary to use any surplus or contingency reserves to pay any liabilities or to retire any capital stock, allocated contingency reserves and surplus shall be exhausted first in accordance with rules prescribed by the Farm Credit Administration.

(b) For purposes of applying the amendment in subsection (a) of this section, that part of the fiscal year 1956 preceding the effective date of title I of this Act and that part of such year following said effective date shall be deemed to be separate fiscal years.

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Page 16, line 23, strike out "three" and insert "six".

Page 17, line 19, strike out "three" and insert "six".

Page 23, beginning on line 14, strike out all of section 201, through page 28, line 8, and renumber following sections to conform.

Page 30, beginning on line 20, strike out all of sections 207 and 208, through page 31, line 8.

Page 34, line 10, strike out "therefore" and insert "therefor".

Page 34, line 13, strike out the period at the end of subsection (d) and insert "and substituting 'but loans to any one borrower shall not exceed $100,000 unless approved by the Farm Credit Administration',".

Page 35, line 10, strike out "capitol" and insert "capital".

Page 37, line 2, after "SEC. 401." strike out through and including the colon on line 8, and insert:

(a) Section 5 (b) of the Farm Credit Act of 1937, as amended, is amended by changing the sixth sentence thereof to read as follows:

"After the date of enactment of the Farm Credit Act of 1955, no person shall be eligible for election or appointment to membership on said Board if such person has within one year next preceding the commencement of the term been a salaried officer or employee of the Farm Credit Administration, or a salaried officer or employee of any corporation operating under the supervision of the Farm Credit Administration."

(b) Section 5 (d) of the Farm Credit Act of 1937, as amended, is amended—

(1) by substituting "six months" for "three months" wherever it occurs in paragraph (2) thereof; and

(2) by adding at the end thereof a new paragraph as follows:".

Page 38, line 9, strike out "this sentence" and insert "the Farm Credit Act of 1955".

STATEMENT

Section 2 of the Farm Credit Act of 1953 (act of August 6, 1953) states that it is the policy of Congress "to encourage and facilitate increased borrower participation in the management, control, and ultimate ownership under the permanent system of agricultural credit made available through institutions operating under the supervision of the Farm Credit Administration." The same section requires the Federal Farm Credit Board, established by the 1953 act, to study the further steps needed to carry this policy into effect and to recommend to Congress such additional and supplemental legislation as might be required.

The Board's report, including a draft of its recommendations in legislative form, was submitted to Congress on December 8, 1954, and printed as Senate Document 7, 84th Congress. H. R. 5168, reported herewith, embodies most of the recommendations contained in that report.

At the hearings on the bill, which continued for several days, numerous witnesses, including representatives of the major farm organizations, appeared in support of the measure. No witnesses appeared in opposition to the bill as a whole but there was a substantial difference of opinion as to the merits of certain portions of the bill. In general, the committee amendments have changed or removed from the bill those portions to which there was substantial opposition. These will be discussed in more detail later in the report.

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Farm Credit System

Following is a brief outline of the Federal farm credit system. It consists of the following:

1. The Farm Credit Administration which supervises, examines, and coordinates the activities of the credit agencies in the Federal farm credit system. The Farm Credit Administration consists of the Federal Farm Credit Board, the Governor, and its other officers and employees.

2. The Federal land-bank system established pursuant to the Federal Farm Loan Act approved July 17, 1916. It consists of 12 Federal land banks which provide farmers and ranchers with long-term credit on farms and ranches through approximately 1,100 national farm loan associations.

3. The Federal intermediate credit bank system established pursuant to the Agricultural Credits Act of 1923. It consists of 12 banks which discount paper for or make loans to production credit associations and also to certain private credit agencies making short-term agricultural loans to farmers and ranchers.

4. The production credit system created by the Farm Credit Act of 1933. It consists of 12 production credit corporations and 498 production credit associations. The production credit corporations supervise the production credit associations, which make short-term agricultural loans to farmers and ranchers.

5. The system of banks for cooperatives also created by the Farm Credit Act of 1933. It includes 12 regional banks for cooperatives and 1 Central Bank for Cooperatives, which extend credit to farmers' marketing, purchasing, and service cooperatives.

6. The Federal Farm Mortgage Corporation organized under the Federal Farm Mortgage Corporation Act of 1934. This is the Corporation which made the Land Bank Commissioner-type loan under the Emergency Farm Mortgage Act of 1933. It is now principally engaged in liquidating the remaining loans so made and the assets which it acquired in connection with such loan program.

The United States is divided into 12 farm credit districts and in each district there is a Federal land bank, a Federal intermediate credit bank, a production credit corporation, and a bank for cooperatives. In order to coordinate the operations of each of these institutions in each district there is a district farm credit board, the members of which are ex officio directors of each of the institutions. However, each of the institutions has its own officers elected by its board of directors. Each district board now consists of 7 members selected as follows: 2 members elected by the district national farm loan associations, 2 members elected by the district production credit associations, 1 member elected by the cooperative associations which hold stock in the regional bank for cooperatives, and 2 members appointed by the Governor of the Farm Credit Administration.

The bill is divided into four titles: Title I relates to banks for cooperatives; title II relates to the production credit system; title III to the Federal land-bank system; and title IV contains miscellaneous provisions relating to the conduct of elections pertaining to membership on district farm credit boards and to nominees for appointment to, and the terms of office of members on, the Federal Farm Credit Board.

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TITLE I—BANKS FOR COOPERATIVES

The system of banks for cooperatives consists of 13 banks, 12 regional banks for cooperatives, 1 located in each farm credit district, and the Central Bank for Cooperatives located in Washington, D. C. Upon organization, the banks were capitalized by the United States out of the revolving fund from which the Federal Farm Board previously made loans under the Agricultural Marketing Act of 1929. The original capitalization amounted to $110 million. As the credit service of these banks to farmers' cooperatives increased, capital subscriptions by the United States increased until they reached $178.5 million in 1945. Although the banks have continued to increase their credit services to cooperatives, such subscriptions have now been reduced to $150 million. Farmers' cooperative associations borrowing from the banks are required to purchase capital stock or subscribe to the guaranty fund (both of which are hereafter referred to as capital stock) of the banks in stated amounts related to the size and type of loans. As of December 31, 1954, cooperative associations held capital stock totaling $19,904,400, and the banks had earned surplus and reserves in the sum of $81,720,003. A balance of approximately $35.7 million remains in the revolving fund available for further subscriptions to capital in these banks if the need therefor should arise.

The banks for cooperatives obtain their loan funds, in addition to the capital and surplus, through the sale of debentures to the public and by loans from the Federal intermediate credit banks and commercial banks. Since August 23, 1954, the banks have been authorized to sell consolidated collateral trust debentures which are the joint and several obligations of all of the banks. Prior to that date only the Central Bank had the authority to issue and sell debentures. The first issue of consolidated debentures was dated February 1, 1955, and was issued to refinance an issue of Central Bank debentures. The authority to issue consolidated debentures gave the banks a broader base for borrowings and should assist the banks to rely more heavily upon the use of borrowed funds in their lending operations.

As previously stated, the banks for cooperatives make loans to farmers' marketing, purchasing, and service cooperatives. The loan programs of the 12 regional banks and the Central Bank are coordinated to avoid duplication of operations and lending authority. Lending limits are established by the Farm Credit Administration for the regional banks based on a percentage of their capital, surplus, and reserves depending on the type of loan. These lending limits are sufficient to enable the regional banks to meet the needs of most cooperative associations. When the amount of loans applied for by a single borrowing association would exceed the lending limits of a regional bank, the amount above the lending limit is offered to the Central Bank. Thus a regional bank, with the Central Bank participating in the larger loans, has been able to distribute the risk, and the system has been able to render adequate credit service on a sound basis to both large and small farmers' cooperatives throughout the Nation. The Central Bank makes a few loans direct. Also, it has served as a source of funds for the district banks which has permitted greater use of the resources of the system.

Under present law, the required capital stock purchases by borrowing cooperatives will not furnish sufficient capital funds to permit the

banks to operate on a sound basis and meet the credit needs of farmers' cooperatives. As presently organized, the use of Government capital is essential to continued operation of the system.

The primary purpose of title I of the bill is to provide a plan under which the banks would be organized on a truly cooperative basis. Borrowing cooperatives would continually make capital contributions to the system so long as they used its credit service. Each year final net savings (after taxes, dividends, reserves, and surplus requirements) would be distributed as patronage refunds to borrowing cooperatives in the form of capital stock, all of which capital would remain in the system until all of the capital stock of the United States had been retired. Each year Government capital would be retired in an amount equal to the required stock contributions of and the patronage refunds to the borrowing cooperatives.

TITLE II—PRODUCTION CREDIT SYSTEM

Title II of the bill relates to the production credit system consisting of 12 production credit corporations, which are wholly Government-owned, and 498 production credit associations. Currently, 415 of the production credit associations are wholly member-owned and 83 are jointly owned by their members and the production credit corporations of their respective districts.

When this system was established in 1933 the production credit corporations were created as wholly owned Government corporations to organize, capitalize, and supervise the production credit associations in each district so that short-term agricultural credit would be available to farmers and ranchers throughout the United States on a cooperative basis.

The corporations were capitalized by stock subscriptions made on behalf of the United States out of a revolving fund of $120 million. As each association was organized the corporation subscribed to the initial capital in order to enable it to commence operations. Approximately $90 million of the corporation's capital was used to purchase stock in the associations. As the financial position of the associations grew on a sound basis through capital contributions made by their members and through the accumulation of earnings, the capital stock held by the corporations was retired and the proceeds were returned to the corporations. By this process the associations are being converted into member-owned associations, as all but approximately $3 million of the original approximately $90 million has been returned.

As of December 31, 1954, member-owned stock in the 498 associations was as follows: Class A stock, $25,019,916; class B stock, $69,590,065. No class C stock has been sold.

As of December 31, 1954, the corporations had outstanding stock owned by the United States in the amount of $31,735,000 and earned surplus and reserves totaling $14,037,840. There remains in the revolving fund $58,265,000 available for possible future subscriptions to stock in the corporations, $30 million having been returned from the original revolving fund to the general fund of the Treasury. All of the operating costs of the corporations are paid out of earnings on their investments or out of their accumulated surplus funds.

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TITLE III—FEDERAL LAND BANK SYSTEM

Title III of the bill contains proposed amendments relating to the land-bank system, the purpose and objective of which are to increase borrower participation in the operations of the system, to increase operating efficiency, and to render a more complete long-term credit service to agriculture.

The Federal land-bank system consists of 12 Federal land banks and approximately 1,100 national farm loan associations. All of the national farm loan associations are capitalized and owned by their members, and all of the capital stock of each Federal land bank is owned by the national farm loan associations; therefore, the land-bank system is wholly member-owned. As of December 31, 1954, the national farm loan associations owned $78 million of capital stock in the land banks, and the land banks had earned surplus and reserves totaling $260 million.

Initially this system was primarily capitalized by the United States, under a plan which provided for eventual borrower ownership through the retirement of the Government's capital stock subscriptions as capital contributions of members increased.

The land banks make their loans to farmers and ranchers through the national farm loan associations. Each borrower must be a member of the association through which he obtains a loan and he must purchase stock in the association in an amount equal to $5 for each $100 borrowed. The association in turn must have a like amount of stock in the land bank. When the Government had capital invested in the land banks, the law required that each year an amount equal to 25 percent of the subscriptions by the national farm loan associations be retired. Originally the Government made stock subscriptions totaling about $9 million. By 1932 this figure had been reduced to about $150,000. However, in order to enable the banks to render their credit services to agriculture during the severe depression of the early thirties, $125 million was made available in 1932 for subscriptions by the United States to capital stock of the Federal land banks, and under subsequent legislation, the first of which was enacted in 1933, the United States subscribed to the paid-in surplus of the banks in the amount of approximately $189 million to enable the banks to grant deserving borrowers extensions and deferments of payments due on mortgage loans. By 1947, the banks had repaid all of these funds, and have since been completely member-owned.

The banks obtain their loan funds over and above their capital by the sale of consolidated farm loan bonds to the public. These bonds are the joint and several obligations of the banks, and are not guaranteed either as to principal or interest by the United States. As of December 31, 1954, the banks had outstanding consolidated bonds in the principal sum of approximately $1,030 million.

At the present time the banks can make loans on farm properties in amounts not in excess of 65 percent of the normal value of the individual farm offered as security as that value is determined by land-bank appraisers. These appraisers are employees of the Farm Credit Administration and they operate under appraisal standards prescribed by the Farm Credit Administration. Loans so made are eligible collateral for the consolidated bonds isused by the banks.

* * * * * * *

Committee Amendments

With the exception of perfecting and clarifying amendments, following is an explanation of the amendments to the bill made by the committee:

SECTION 103

This section amends section 36 of the Farm Credit Act of 1933. The language of subsection (c) contained in the bill as introduced would have retained a permanent Government interest in the surplus and reserves of the banks for cooperatives, even after all the Government stock in the banks had been retired. The amendment made by the committee will retain a Government interest in the surplus and reserves only so long as, and to the extent that, there is Government ownership of stock in the banks. In the event of liquidation, the assets remaining after payment of liabilities would be divided pro rata among the stockholders.

SECTION 201

This section, covering about five pages in the bill, provided for substantial changes in the financial structure and operation of the production credit associations and for the assumption of ownership by the associations of the production credit corporations. This was the most generally opposed section of the bill. There was no unanimity of criticism. Some witnesses thought it was too generous in its treatment of production credit associations—others that it imposed too heavy an obligation on them. The great majority were agreed, however, that the matter should have further study. With this the committee agrees. It has removed section 201 from the bill with the understanding that the Farm Credit Board will give this whole matter further study and will make new recommendations on the subject by the time Congress meets in January 1956. Deletion of section 201 required also the deletion of two minor sections of title II: sections 207 and 208.

SECTION 304

This section amends section 12 of the Federal Farm Loan Act, which establishes the terms and conditions on which farm mortgage loans may be made by the Federal land banks. Subsection (a) of the bill as introduced would have increased the present ceiling of $100,000 on such loans to $200,000 and eliminated the requirement that loans in excess of $25,000 must have the approval of the central office of the Farm Credit Administration. The committee amendment puts the ceiling at $200,000 but requires that any loan in excess of $100,000 must have the approval of the Farm Credit Administration.

SECTION 401

The committee has added an amendment which will prohibit salaried officers or employees of the Farm Credit Administration from hereafter being elected or appointed members of a district farm credit board. Such employees are now ineligible for appointment but not for election. The provision will not affect the term of office of anyone now serving on such a board.

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Analysis of the Bill

Short title

Section 1 provides that the short title of the bill shall be the Farm Credit Act of 1955.

TITLE I—BANKS FOR COOPERATIVES

Stock of the banks for cooperatives (sec. 101)

Section 101 would amend section 42 of the Farm Credit Act of 1933 so as to provide three classes of stock for the banks for cooperatives: Class A, class B, and class C. Each class would have a par value of $100 a share.

Under present law, there is but one class of stock for the banks for cooperatives. Approximately 88 percent of the aggregate stock of the Central and regional banks for cooperatives is held by the Governor of the Farm Credit Administration on behalf of the United States. The balance is held by borrowers from the banks, who are required to purchase stock or subscribe to the guaranty fund in amounts related to the size of their loans. Present law authorizes dividends up to 7 percent per annum, but no dividend has been declared or paid by a bank for cooperatives. The rights of existing stockholders of the banks are adequately protected.

Class A stock.—Class A stock would be held only by the Governor of the Farm Credit Administration on behalf of the United States. Existing stock so held by the Governor on the effective date of title I of the bill would be exchanged, share for share, for class A stock of the respective banks. Class A stock would be nonvoting and it would not be entitled to dividends. At the end of each fiscal year, each bank would determine the amount of class A stock to be retired by the bank. Funds from the retirement of class A stock would be paid into the revolving fund in the United States Treasury from which subscriptions to stock of the banks are made and would continue to be available for subscriptions to class A stock when required for the purpose of meeting the credit needs of eligible borrowers from the banks.

The amount of class A stock which each bank would be required to retire each year would be the equivalent in dollar value of the amount of class C stock issued by the bank for that year except that (1) class C stock issued by a regional bank on account of class C stock issued to it by the Central Bank, (2) class C stock issued by a regional bank in exchange for class B stock the proceeds of which were used to retire an equivalent amount of class A stock, and (3) class C stock issued by a regional bank in exchange for capital stock of the bank outstanding on the effective date of title I would not be included in calculating the minimum amount of class A stock the bank must retire. Any amount of class A stock retired in excess of such minimum amount in any one year could be used to reduce to that extent the amount required to be retired in any subsequent year.

Class B stock.—Class B stock would be an investment stock intended for sale to farmers' cooperative associations and others as one of the new means of capitalizing the banks for cooperatives. It would be sold only at par and would be nonvoting. With the approval of the Farm Credit Administration, a bank would be authorized to pay noncumulative dividends on class B stock not in excess of 4 percent

per annum, if the surplus account of the bank after the payment of such dividends would not be less than 25 percent of the bank's outstanding stock. Patronage refunds could not be distributed in any year unless for that year a dividend of at least 2 percent was paid on class B stock. Class B stock would be issued in series and amounts approved by the Farm Credit Administration. The particular conditions of such stock would be stated on the face of the stock certificates. Class B stock could be called for retirement at par after all class A stock of the bank has been retired, the oldest outstanding class B stock to be called first. A holder of class B stock whose stock has been called for retirement could elect, with the approval of the issuing bank, to have his called stock remain outstanding, subject to its being included in the next call for retirement.

Class C stock.—Class C stock would in effect be the voting, common stock of the banks. It would be issued at its fair book value but not in excess of par. No dividends would be paid on it. Ordinarily it would be issued to and held by farmers' cooperative associations which borrowed from the banks for cooperatives, but class C stock of the Central Bank would only be issued to and held by regional banks. Class C stock could be issued in fractional shares as well as whole shares.

A cooperative association holding one or more shares of class C stock of a regional bank for cooperatives would be entitled to vote in the polls for designating nominees for appointment to the Federal Farm Credit Board pursuant to section 4 (a) of the Farm Credit Act of 1953, in the nomination polls and elections of members of district farm credit boards pursuant to section 5 of the Farm Credit Act of 1937, as amended, and in the nomination and election of directors of the Central Bank for Cooperatives under section 104 of the bill. The association, in such polls and elections, would have one vote only without regard to the number of shares of class C stock held by it. A cooperative association holding class C stock, and otherwise entitled to vote, would not be eligible to vote if it had not been a borrower from a bank of which it holds class C stock, or from the Central Bank, within a period of 2 years next preceding a date, fixed by the Farm Credit Administration, prior to commencement of the voting. The voting rights of an association holding existing stock of a bank for cooperatives would not be impaired. Associations holding guaranty-fund equivalents of class C stock or of existing stock would have the same voting rights as would the respective holders of such stock.

Each borrower from a bank for cooperatives would be required to own, at the time the loan is made, at least one share of class C stock, which might be paid for out of the loan proceeds. In addition, each borrower would be required quarterly to purchase class C stock in the lending bank in an amount equal to not less than 10 nor more than 25 percent of the amount of interest on loans payable by the borrower to the bank during the calendar quarter. The amount of the quarterly stock purchase, within the 10–25 percent limits, would be prescribed by the board of directors of the bank with the approval of the Farm Credit Administration. Payments for the stock required to be purchased would be made quarterly or when the regular interest payments of the borrower were payable. The stock would be issued to the borrower as of the end of the fiscal year in the amount of such payments made by the borrower during that fiscal year.

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These required purchases of stock would not necessarily be limited to cooperative associations eligible to borrow, but might be imposed upon other entities which were carrying loans with a bank; for example, an association might become ineligible to borrow after it obtained a loan or an association's property might be acquired, subject to a loan, by a corporation not qualified as a cooperative association. Borrowers such as these could be required by regulations of the Farm Credit Administration to make the quarterly stock purchases.

Each regional bank would be required to own at least one share of class C stock of the Central Bank. Also, in connection with each loan made by a regional bank in which the Central Bank purchases a participating interest, the regional bank would be required quarterly to buy class C stock of the Central Bank in an amount equal to not less than 10 nor more than 25 percent of the amount of interest payable by the regional bank to the Central Bank during the quarter by reason of the participating interest of the Central Bank in the loan. The amount of the quarterly stock purchase, within the 10–25 percent limits, would be prescribed by the Board of Directors of the Central Bank with the approval of the Farm Credit Administration. The stock would be paid for by the regional bank and issued by the Central Bank in substantially the same way that borrowers from a regional bank would pay for and receive class C stock of the regional bank.

After all class A stock has been retired, class C stock could be retired at par through the method of retiring first the oldest class C stock outstanding, but class C stock issued for a fiscal year period could not be retired until all class B stock issued during or prior to that fiscal year had been called for retirement.

Stock conversion privileges.—Outstanding capital stock issued before the effective date of title I held by a borrower could be converted into class B or class C stock, and class B stock could be converted into class C stock for the purpose of making the quarterly purchases of class C stock required of a borrower (see also sec. 111).

Guaranty-fund subscriptions in lieu of stock purchases.—The laws of certain States do not permit cooperative associations to acquire stock in a bank for cooperatives. Consequently, section 101 contains provisions, similar to provisions of the existing law, which would authorize an association organized under the laws of such a State, in lieu of purchasing stock, to subscribe to a guaranty fund of the lending bank in amounts equivalent to the amounts of class C stock which the association would otherwise be required to purchase. Patronage refunds payable to such an association would be credited to the guaranty fund for its account in lieu of the issuance of class C stock. Such an association would also be authorized to make payments into the guaranty fund in lieu of the purchase of class B stock. To the extent permitted by the laws of the State under which such an association is organized, the holder of guaranty-fund equivalents of class B or class C stock would have the same rights and status as class B and class C stock, respectively; and the rights and obligations of the bank as respects such guaranty-fund equivalents would be the same as its rights and obligations with respect to class B or class C stock, respectively.

Lien on stock.—Section 101 would authorize the bank, upon default of a loan, to retire and cancel all or any part of the borrower's stock

in the bank at fair book value not exceeding par in total or partial liquidation of the debt. Thus, stock held by a borrower in a bank would constitute additional collateral for any indebtedness of the borrower to the bank. If an association borrowed directly from the Central Bank, that bank would have a first lien on any amount of class C stock which the association owned in any regional bank on account of the direct loan from the Central Bank, and the regional bank would have a lien on such stock, for any indebtedness of the association to it, junior only to the lien of the Central Bank. If a direct loan of the Central Bank were in default and class C stock issued by a regional bank to the borrower in connection with the loan were retired, the corresponding stock in the Central Bank held by the regional bank would also be retired.

Election of additional district farm credit board members.—Section 5 (d) (2) (C) of the Farm Credit Act of 1937, as amended by section 15 of the Farm Credit Act of 1953, provides that whenever the sum of the capital stock and subscriptions to the guaranty fund of a regional bank for cooperatives held by cooperatives, and surplus and reserves of the bank, shall equal or exceed 66⅔ percent of the total capital stock, subscriptions to the guaranty fund, surplus, and reserves of the bank, the cooperative associations which are stockholders or subscribers to the guaranty fund of the bank shall under prescribed conditions be entitled to elect a second member of the district farm credit board. Section 101 provides that, for the purposes of calculating such 66⅔ percent, the term "capital stock and subscriptions to the guaranty fund held by cooperatives," or the equivalent of that term, shall mean all outstanding class B and class C stock of the bank and the guaranty-fund equivalents thereof, as well as outstanding stock issued before the effective date of title I.

Application of stock provisions to Central Bank (sec. 102)

Section 102 provides that the provisions of the bill relating to class A, class B, and class C stock of the regional banks shall apply generally to the Central Bank. An association borrowing directly from the Central Bank would be required to own at the time the loan is made at least one share of class C stock in a regional bank designated by the Farm Credit Administration. Such a borrower would be required to invest quarterly in class C stock in such regional bank or banks as the Farm Credit Administration might designate, amounts equal to not less than 10 nor more than 25 percent of the amount of interest payable by the borrower on the loan during the calendar quarter. The amount of the quarterly stock purchase, within the 10–25-percent limits, would be prescribed by the Board of Directors of the Central Bank with the approval of the Farm Credit Administration. Payments for the stock required to be purchased would be made quarterly or when the regular interest payments of the borrower were payable. The stock would be issued to the borrower as of the end of the fiscal year in the amount of such payments made by the borrower during that year. The regional bank which issued stock to such a direct borrower from the Central Bank would be required to purchase a corresponding amount of class C stock in the Central Bank.

Application of savings; distribution of assets upon liquidation (sec. 103)

Section 103 (a) amends section 36 of the Farm Credit Act of 1933 to provide a new method of application and distribution of the net

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savings of the banks, as determined for each fiscal year in accordance with the bill, whereby all such savings would be applied or distributed by allocation and none would be retained by the banks in the nature of unapplied or unallocated earnings. Net savings would be the amount of income of a bank remaining after all operating expenses are paid or provided for, including the establishment of reasonable valuation reserves, and the making good of any losses in excess of any such valuation reserves. The net savings would be applied as follows:

1. *Restoring impairment of capital stock.*—If the board of directors of a bank had determined that the capital stock of the bank was impaired, net savings would be applied first toward the restoration of the amount of such impairment.

2. *Creation and maintenance of surplus account.*—After restoration of any impairment of capital stock, 25 percent of any remaining net savings would be carried to a surplus account. As used in the bill, "surplus account" means any surpluses and contingency reserves shown on the books of the banks as of the effective date of title I, plus amounts added to the surplus account after such date. Amounts of net savings required to be carried to surplus account after the effective date of title I would be allocated to borrowers on a patronage basis approved by the Farm Credit Administration and if the surplus account of a bank exceeded 25 percent of its total outstanding capital stock, the bank might distribute all or any part of such allocated excess by issuing class C stock to the patrons to whom the allocations were made. Any surpluses and contingency reserves shown on the books of the banks as of the effective date of title I could not be allocated or distributed, but would remain as a part of the permanent capital structure of the banks. The surplus account would be divided to show the amounts thereof subject to allocation and possible distribution in class C stock, and the amounts thereof which must be retained in the bank.

3. *Franchise tax.*—If during all or any part of a fiscal year the United States held stock in a bank for cooperatives, the bank, after making the required transfer to surplus account, would, as presently provided by law, pay a franchise tax to the United States equal to 25 percent of its net savings then remaining, but not exceeding a rate of return on the Government's investment in the bank's stock calculated at a rate equal to the computed average annual rate of interest on all public issues of public-debt obligations of the United States issued during the fiscal year ending next before such tax is due. Since the tax would be due on the last day of a fiscal year, the applicable rate of interest would be the rate for the preceding fiscal year. Patronage refunds received by a regional bank from the Central Bank would not be included in the computation of net savings of the regional bank for the purpose of computing the franchise tax since the Central Bank also would be subject to the franchise tax provisions.

4. *Contingency reserves.*—Out of net savings remaining after payment of any franchise tax a bank could establish and maintain reasonable contingency reserves. Amounts of net savings applied to contingency reserves after the effective date of title I would be allocated to borrowers on a patronage basis approved by the Farm Credit Administration. If at the end of any fiscal

year a bank determined that a portion of its contingency reserves was no longer necessary, such portion would be transferred to the surplus account.

5. *Dividends on class B stock.*—Net savings remaining after any application thereof to contingency reserves would be available for dividends on class B stock to the extent and under the conditions heretofore discussed.

6. *Patronage refunds.*—The balance of any net savings remaining after application and distribution as explained above would be distributed as patronage refunds. Patronage refunds would be paid in class C stock and would be paid in the proportion that the amount of interest earned by the bank on the loan of each borrower bears to the total interest earned on the loans of all borrowers from the bank during the fiscal year. The Central Bank would pay patronage refunds in its class C stock to the regional banks upon the basis of participating interests the Central Bank held in loans made by the respective regional banks. In the case of a direct loan made by the Central Bank, patronage refunds of the Central Bank would be paid in class C stock issued to the regional bank or banks which issued stock to the borrower in connection with such direct loans, or to a regional bank or banks designated by the Farm Credit Administration. Regional banks receiving class C stock of the Central Bank in connection with direct loans of the Central Bank would issue like amounts of their class C stock to the respective borrowers.

7. *Disposition of losses.*—A net loss in any fiscal year would be absorbed by: First, charges to allocated contingency reserves; second, charges to allocated surplus; third, charges to other contingency reserves and surplus; fourth, the impairment of class C stock; and fifth, the impairment of all other stock.

Section 103 (a) also provides for the distribution of assets upon liquidation or dissolution of the banks. In that event, all liabilities would first be paid or payment thereof provided for. Next, capital stock issued before the effective date of title I held by cooperative associations, class A stock, and class B stock would be retired at par. Remaining assets of the bank would be used next to retire all class C stock at par. Any remaining assets would then be distributed as follows: First, surpluses and contingency reserves on hand on the effective date of title I would be paid to the holders of outstanding stock issued before the effective date of title I, class A and class C stock pro rata; and second, any residual assets (surpluses and contingency reserves) would be distributed as allocated on the books of the bank. Section 103 (a) also provides that in absorbing losses, allocated contingency reserves and allocated surplus shall be exhausted first and other contingency reserves and surplus would then be used.

Section 103 (b) provides that for the purpose of applying the amendment in subsection (a), the fiscal year 1956 may be divided and each part thereof treated as a separate fiscal year. Under this provision, the savings prior to the effective date of title I would be applied in accordance with the law in effect before such date and savings thereafter would be applied in accordance with the amendment contained in section 103 (a).

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Board of Directors of Central Bank (sec. 104)

Under existing law the Board of Directors of the Central Bank for Cooperatives consists of seven members. One member is an official of the Farm Credit Administration designated by the Governor, who is ex officio Chairman of the Board and chief executive officer of the bank. The remaining 6 Directors are appointed by the Governor, 3 from nominees selected by cooperative associations which are borrowers from the Central Bank.

Section 104 would amend section 31 of the Farm Credit Act of 1933 to provide a new Board of seven members for the Central Bank. Initially 4 Directors would be appointed by the Governor of the Farm Credit Administration by and with the advice and consent of the Federal Farm Credit Board and 3 would be elected by the regional banks for cooperatives and cooperative associations eligible to vote in accordance with regulations prescribed by the Farm Credit Administration. Any appointed Director could be removed at pleasure at any time by the Farm Credit Administration. The terms of office of members of the new Board would be staggered so that new members would be appointed and elected each year. After the expiration of initial terms expiring at the end of 1 and 2 years, respectively, the terms of office of all appointed and elected Directors would be 3 years.

Initially, for the purpose of electing Directors of the Central Bark, the 12 farm credit districts would be divided into 3 areas, each comprised of 4 contiguous farm credit districts, and a Director from each of such areas would be elected from nominees selected by the regional banks of the area and cooperative associations of the area eligible to vote. Whenever the sum of the capital stock and subscriptions to the guaranty fund of the Central Bank not held by the Government and surplus and reserve accounts of the bank equaled or exceeded 66⅔ percent of the total capital stock, subscriptions to the guaranty fund, and surplus and reserve accounts of the bank, additional Directors would be elected until a total of 6 of the Directors were elected Directors and the remaining 1 an appointed Director. When the number of elected Directors is to be increased from 3, the Farm Credit Administration would group the farm credit districts into 6 areas, each comprised of 2 contiguous farm credit districts and a Director would be elected from each of said 6 areas from nominees selected by the banks for cooperatives and associations eligible to vote in the area. If, after more than 3 Directors have been elected, the sum of the capital stock and subscriptions to the guaranty fund of the Central Bank not held by the Government and surplus and reserve accounts of the bank should fall below the aforesaid 66⅔ percent, elected Directors as their terms expired would be replaced by appointed Directors until again the number of elected Directors did not exceed 3.

In providing for the election of Directors, section 104 would grant the right to vote to the regional banks for cooperatives and to cooperative associations which are eligible to vote and own one or more shares of class C stock in a bank or one or more shares of presently outstanding stock. A principal reason for extending the voting rights in this way is because it is contemplated that under the bill there would be very few direct borrowers from the Central Bank, whereas the regional banks and cooperative associations using the system have a real interest in the management of the affairs of the Central

Bank. Each regional bank and each association eligible to vote would be entitled to one vote only without regard to the number of shares of stock it held, and the vote could be cast only with respect to elections in the area in which is located the main office of the voter.

Elected Directors would be required to have been residents of the area from which they are elected for a period of at least 2 years prior to the election. To be eligible for nomination, election, or appointment as a Director, a person could not have been within a period of 1 year next preceding the commencement of the term a salaried officer or employee of the Farm Credit Administration or of any corporation operating under supervision of the Administration. If a member of the Federal Farm Credit Board or of a district farm credit board were appointed or elected as Director, he would be required to resign as member of the Federal Board or district board before assuming duties as Director of the Central Bank. If a Director of the Central Bank became a member of the Federal Farm Credit Board or of a district farm credit board or an officer or employee of the Farm Credit Administration or of any corporation operating under its supervision, he would not be eligible to continue to serve as Director of the Central Bank. The provisions of section 104 with respect to the eligibility of Directors of the Central Bank is patterned after the similar provisions of the Farm Credit Act of 1953 relating to members of the Federal Farm Credit Board.

Powers of Boards of Directors

Under the present law the Chairman of the Board of the Central Bank is an officer of the Farm Credit Administration designated by the Governor. This official is also the chief executive officer of the bank. The powers of the Board of Directors are such as are prescribed in the charter and bylaws. Section 105 would authorize the Board of Directors to elect a Chairman and a Vice Chairman from among its members. It would also provide specifically that the Board, subject to approval of the Farm Credit Administration, would have power to appoint and fix the compensation of the chief executive officer and such other officers, employees, experts, and consultants as might be necessary for the efficient conduct of the bank's business. An officer or employee of the Farm Credit Administration would not be eligible to serve as chief executive officer of the bank.

Miscellaneous provisions (sec. 106)

Policy regarding loans by Central Bank.—Section 106 enacts into law the present policy under which the Central Bank makes loans only when it is not practicable for the loan to be made by a regional bank. Under this policy, the bulk of the business of the Central Bank is represented by interests purchased by the bank in the larger loans made by regional banks.

Authority of custodians of collateral (sec. 107).—Section 107 provides that custodians of collateral who act for the banks for cooperatives may act also, with the approval of the Farm Credit Administration, as custodians in connection with loans of eligible cooperative associations obtained from other sources. This provision would facilitate borrowings by the cooperative associations from commercial lenders.

Transfer of certain functions to Central Bank Board (sec. 108).—In view of the provisions of section 105 whereby the chief executive officer of the Central Bank would not be an official of the Farm Credit

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Administration, and the proposed broadening of the powers of the Bank's Board of Directors, section 108 provides for the transfer to the Board of Directors of the bank or the Farm Credit Administration of authorities vested in the Chairman of the Board under present law, and provisions of existing law inconsistent with these provisions of the bill would be repealed (sec. 110 (c) also repeals a provision which is inconsistent with the provisions of the bill).

Interest rates (sec. 109).—Existing law relates the interest rates on loans made by the banks for cooperatives to interest rates charged by Federal intermediate credit banks and Federal land banks. Interest rates are prescribed by the Governor as he determines necessary for the needs of the banks, but no interest rate may exceed 6 percent per annum. The interest rate for operating capital loans is conformed as nearly as may be practicable to a rate 1 percent in excess of the rate paid by production credit associations to the intermediate credit banks. The interest rate on commodity loans conforms likewise to the prevailing interest rates on commodity loans charged by the intermediate credit banks and the interest rate on facility loans conforms to the rate charged by the Federal land banks on mortgage loans. In view of the necessity of setting rates so as to provide adequate interest income to the banks for cooperatives, it seems inappropriate and unrealistic to relate the interest rates that they may charge to rates charged by other institutions. Accordingly, section 109 provides that the boards of directors of the respective banks for cooperatives would prescribe the interest rates on loans from time to time with the approval of the Farm Credit Administration, but in no case could the interest rate exceed 6 percent per annum.

Receivership; voluntary liquidation (sec. 110).—The present law provides receivership and voluntary liquidation proceedings for the regional banks for cooperatives but not for the Central Bank. Section 110 (a) would make these provisions applicable also to the Central Bank.

Limitation on compensation.—Section 110 (b) would repeal the provision of law limiting to $13,800 per annum the compensation which may be paid directors, officers, or employees of the banks for cooperatives, production credit corporations, and production credit associations. No limitations upon compensation have ever applied to Federal land banks, Federal intermediate credit banks, or national farm loan associations. However, the compensation of officers and employees of all supervised institutions is subject to the approval of the Farm Credit Administration. Placing institutions of the cooperative bank and production credit systems upon the same basis as are the others would be consistent with the express congressional policy to facilitate increased borrower participation in the management, control, and ultimate ownership of the farm credit system.

Authority to issue regulations.—Section 110 (d) would extend the general authority of the Farm Credit Administration to make regulations for the efficient execution of the Federal Farm Loan Act and acts amendatory thereof and supplementary thereto to the Farm Credit Act of 1933 and acts amendatory thereof and supplementary thereto. This provision would grant the Farm Credit Administration the same authority to issue regulations with respect to the banks for cooperatives, the production credit corporations, and production credit associations that it now has with respect to the Federal land

banks, Federal intermediate credit banks, and national farm loan associations.

Application to existing loans (sec. 111)

Generally, under section 111 of the bill, the provisions of title I would not apply to loans made before its effective date, except as and when such loans might be brought under the new provisions by agreements between the borrowers and the lending banks. Holders of stock of banks for cooperatives issued before title I became effective would retain voting rights. By agreement between a borrower and the bank, such stock may be converted in whole or in part into the new class B or class C stock or equivalent guaranty-fund credits. With respect to any such stock not so converted, the holder would retain his right to have such stock retired upon repayment of the loan. With the approval of the Farm Credit Administration, a bank might retire old stock and hold the stock proceeds as security for any indebtedness of the borrower to the bank.

Effective date (sec. 112)

In order that ample time would be given to effect the fundamental changes contemplated in the cooperative bank system and also to obviate difficulties of a fiscal nature, section 112 provides that title I would be effective on the first day of the month next following 120 days after the date of enactment.

TITLE II—PRODUCTION CREDIT SYSTEM

Title II contains provisions relating to the financial structure and operating problems of the production credit associations.

Preferential dividends on class A stock (sec. 201)

The law presently grants class A stock preference over class B stock upon liquidation of a production credit association but provides that these two classes of stock shall share in dividend distributions without preference. Class B stock is held for the most part by member-borrowers of the associations, generally in amounts required in connection with their loans. Class A stock represents investment capital provided by members, many of whom are not currently borrowing, and capital provided by the production credit corporations. Many members of production credit associations have voluntarily purchased class A stock to make possible a reduction in the amount of Government capital in the associations. The great majority of associations have refrained from paying dividends in order to build up their financial strength. Thus, the stockholders of many associations have carried their stock investment for a long period without dividends. It is felt that the time has now come to recognize the position of class A stockholders, who are contributing to the permanent capital of the associations, by making it possible for associations to pay dividends for their benefit without necessarily paying like dividends on the class B stock. Section 201 would authorize the associations to pay dividends on class A stock without also paying dividends on class B stock. Class B stock is largely held by the active borrowers receiving direct benefits in the form of loans from the associations. This section, by encouraging further investments in

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class A stock, would tend to reduce the need for Government capital in the associations.

Distribution of earnings; elimination of guaranty fund; payment of dividends (sec. 202)

The law now requires as a condition precedent to the payment of dividends by a production credit association that it establish and maintain out of its earnings a guaranty fund at least equal in amount to 25 percent of its paid-in capital. The guaranty fund of an association may not be used for making loans to farmers nor as security for borrowings by the association. Accordingly, the guaranty fund of an association is largely immobilized and the association is handicapped to that extent in the full use of its capital funds in meeting the credit needs of its members. Therefore, section 202 would abolish the guaranty fund and provide that the earnings of an association in excess of its operating expenses would be applied, first, to the restoration of capital impairments, if any, and second, to the establishment and maintenance of a surplus account, the minimum amount of which would be prescribed by the production credit corporation of the district. As is the case under existing law, an association would be authorized to pay dividends of not to exceed 7 percent per annum; however, dividends would be paid only when such payments are approved by the production credit corporation of the district and are consistent with policies established by the Farm Credit Administration.

Reserves transferred to surplus account (sec. 203)

Section 203 provides that as of the effective date of title II, any amounts held by a production credit association pursuant to present law in its guaranty fund or in its reserve for bad and doubtful debts would be transferred to the surplus account which would be established under section 202.

Approval of "excess" loans (sec. 204)

Because section 202 would abolish the guaranty fund of associations, section 204 would also eliminate from the statute the prohibition against use of the guaranty fund for making loans to farmers and would amend provisions relating to the size of loans which require prior approval by the production credit corporation or by the corporation and the Farm Credit Administration. Under present law such approvals are required if a proposed loan exceeds specified percentages of the lending association's capital and guaranty fund. Section 204 would change the provisions as regards prior approval of loans by providing that no loan could be made by an association which would cause the aggregate indebtedness of the borrower to the association to exceed 15 percent of the capital and surplus of the association unless the loan is approved by the production credit corporation, and a loan could not exceed 35 percent of the capital and surplus of the association unless it is approved also by the Farm Credit Administration. The new provisions with respect to prior approval of loans would require approval of substantially the same size loans as must have prior approval under existing law.

Taxable status of associations (sec. 205)

Under present law a production credit association is exempt from most taxes so long as the production credit corporation owns any of

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its stock. When all stock of the association owned by the corporation is retired, such tax exemption would terminate. Section 205 would provide that where the production credit corporation holds no class A stock of an association but owns class C stock (authorized by the Farm Credit Act of 1953), the association would be subject to taxation.

TITLE III—FEDERAL LAND BANK SYSTEM

Title III contains amendments relating to the land-bank system, the purpose and objective of which are to increase borrower participation in the operations of the system, to increase operating efficiency, and to render a more complete long-term credit service to agriculture.

Reports to Farm Credit Administration (sec. 301)

Under present law, the Federal land banks and the national farm loan associations are required to furnish the Farm Credit Administration with a quarterly statement of their condition. In addition, it is the duty of the secretary-treasurer of each national farm loan association to furnish a quarterly report to the Farm Credit Administration. Experience has shown that such reports are not necessary quarterly and that it may be preferable to have them at other intervals, such as annually or semiannually. Section 301 would amend such provisions to require that the reports involved be made to the Farm Credit Administration "as required by it," instead of "quarterly."

Stock subscriptions by the United States (sec. 302)

The Federal Farm Loan Act contains a paragraph, added in 1932, which provides for subscriptions by the United States to the capital stock of the Federal land banks, authorizes an appropriation of $125 million therefor, and directs that repayments of such stock be held in a revolving fund available for further stock subscriptions. The last of the stock held by the United States in the land banks was paid off and retired in 1947 and, as directed by the Congress, the revolving fund was covered into the general fund of the Treasury in 1950. At the present time, therefore, there is no appropriation available for further subscriptions by the United States to the capital stock of the land banks and section 302 would repeal the statutory authority for such subscriptions and appropriations.

Appraisals by land bank designees (sec. 303)

Before a Federal land-bank loan now may be closed, the application therefor must be referred to a land-bank appraiser, who is a public official appointed by the Farm Credit Administration, to investigate and make a written report on the security offered for the loan. The loan may not be made unless such written report of the land-bank appraiser is favorable. Also, the amount of any loan may not exceed 65 percent of the normal value of the security as determined by the land-bank appraiser. A loan made within such requirements, among others, may then be pledged by the bank as collateral security for farm loan bonds at the amount of its unpaid balance.

As a result of long experience in making and servicing such loans, there are now employees of national farm loan associations and of Federal land banks, as well as certain others in each district, sufficiently familiar with the appraisal standards prescribed by the Farm Credit Administration to enable such employees, subject to subsequent

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review by a regular land-bank appraiser, to make the investigation and appraisal of the security now required to be made by a land-bank appraiser. Section 303 would amend section 10 of the Federal Farm Loan Act to authorize a Federal land bank, with the approval of the Farm Credit Administration, to make a loan on the basis of an investigation and a favorable written report by a person designated by the Federal land bank of the district. A loan so made could then be used as collateral for bonds at its unpaid balance. A bank making any such loan would be required to obtain, within 1 year, a written report on the security for the loan by a regularly appointed land-bank appraiser. In the event that the unpaid balance of the loan is more than 65 percent of the normal value established by the land-bank appraiser, the loan could not thereafter be carried as bond collateral at an amount in excess of such 65 percent. Further, the loan could not thereafter be used as bond collateral in any amount unless the report by the land-bank appraiser establishes that the security meets the standards prescribed by the Farm Credit Administration for a land-bank loan.

Purposes of loans (sec. 304 (a))

The Federal Farm Loan Act enumerates five purposes for which Federal land-bank loans may be made. One of the specified purposes is to provide the owner of the land mortgaged with funds for general agricultural uses. This purpose is broad enough to include such other specified purposes as the purchase of land for agricultural uses; the purchase of equipment, fertilizers, and livestock for operation of the mortgaged farm; and to provide buildings and farmland improvements. The other specific purpose of such loans is to liquidate indebtedness of the owner of the land mortgaged incurred for agricultural purposes, or incurred at least 2 years prior to the date of the loan application. In some instances, an applicant may desire to obtain a loan for a purpose which is sound and appropriate in his circumstances, but the purpose is not plainly within those enumerated in the existing law. Section 304 (a) would restate the existing purposes in a single comprehensive provision which would recognize not only all general agricultural purposes, but, under rules and regulations of the Farm Credit Administration, also other requirements of the owner of the land to be mortgaged as security for the loan.

Basis of farm appraisal (sec. 304 (b))

The law now provides that a Federal land-bank loan may not exceed 65 percent of the normal value of the farm mortgaged, as ascertained by appraisal, and that "In making said appraisal the value of the farm for agricultural purposes shall be the basis of appraisal and the normal earning power of said farm shall be a principal factor." Section 304 (b) would amend the sentence to add that, "consistent with community standards, the appraisal may also reflect home advantages, and the availability to a typical operator of the property of earnings from other dependable sources to supplement the normal earning power of the farm."

Appraisals under the existing statutory standard have reflected to some extent the home advantages of the farm offered as security, as well as the availability of earnings from other dependable sources. However, under existing statutory restrictions these factors in many instances could not be sufficiently reflected in the appraisals so that

so-called part-time farms, the operators of which commonly avail themselves of other employment, could be deemed acceptable security for land-bank loans. The amendment made by section 304 (b) would enable the Federal land banks to extend their loan service to cover many of such part-time farm properties.

Loans to farming corporations (sec. 304 (c))

Since 1935, the Federal Farm Loan Act has included a provision that Federal land-bank loans may be made to a corporation engaged in the raising of livestock if at least 75 percent in value and number of shares of the stock of the corporation is owned by individuals themselves personally actually engaged in the raising of livestock on the farm to be mortgaged as security for the loan, and if the owners of at least 75 percent in value and number of shares of the stock of the corporation assume personal liability for the loan. The conditions applicable to livestock corporation loans make such loans available, for the most part, only to cases of closely held or family-type corporations. Section 304 (c) would amend the existing provision to authorize loans to corporations engaged in general farming operations if they meet the same requirements which now apply to corporations engaged in the raising of livestock.

Maximum loans (sec. 304 (d))

Under existing law the amount of land-bank loans to any one borrower is limited to $100,000, but loans to any one borrower may not exceed $25,000 unless approved by the Farm Credit Administration. Section 304 (d) of the bill would increase the maximum loan limit from $100,000 to $200,000, and require loans over $100,000 to be approved by the Farm Credit Administration.

Deferment of installment payments (sec. 305)

Federal land-bank loans are required to be made on an amortization plan under which the loan will be repaid within an agreed period of not more than 40 years. The land banks now have authority to permit borrowers to defer the payment of principal installments on their loans in distress cases. The Federal Farm Loan Act also includes a provision which specifically authorizes the banks to permit a borrower to defer payment of the principal portions of installments on his loan in order that he may pay indebtedness secured by a lien junior to the lien of the bank upon the farmland mortgaged to secure his land-bank loan. Section 305 would permit deferments for other purposes for a period not exceeding 5 years under regulations prescribed by the Farm Credit Administration.

Legal reserves (sec. 306 (a))

Federal land banks.—Under existing law, each land bank is required to carry to reserve account semiannually a certain percentage of its net earnings (not less than 50 percent until said reserve equals its capital stock and thereafter 10 percent). There is no limitation on the total amount of legal reserve which is thus required to be established. Section 306 (a) would limit the legal reserve required to be accumulated by a Federal land bank to 150 percent of its outstanding capital stock, and permit any land bank having a legal reserve in excess of such 150 percent to withdraw such excess from the legal reserve account with the approval of the Farm Credit Administration.

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National farm loan associations (sec. 306 (b)).—Under existing law, each national farm loan association is required to carry to reserve account semiannually a certain percentage of its net earnings (not less than 10 percent until said reserve equals 25 percent of its capital stock and thereafter 5 percent). As in the case of the Federal land banks, there is no limitation on the total amount of legal reserve which is thus required to be established. Section 306 (b) would limit the legal reserve required to be accumulated by a national farm loan association to 50 percent of its outstanding capital stock, and would permit any association having a legal reserve in excess of 50 percent of its outstanding capital stock to withdraw such excess from the legal reserve account with the approval of the Farm Credit Administration.

Effective date.—Section 306 (c) of the bill would make the new limitations on the legal reserves of land banks and farm loan associations effective on the next January 1, or July 1 whichever first occurs after enactment.

Examination costs of national farm loan associations (sec. 307)

Under existing law, the costs of examinations of the national farm loan associations by the Farm Credit Administration is assessed against and collected from the Federal land bank in the district, and there is no provision for recovery of such costs from the national farm loan associations. Section 307 would provide that such costs of examinations shall be apportioned to the national farm loan associations but shall continue to be assessed against and collected from the Federal land bank of the district, with the bank being authorized to collect such amounts from the associations in a manner approved by the Farm Credit Administration.

TITLE IV—MISCELLANEOUS PROVISIONS

Elections

Directors of district boards.—Section 401 (a) would amend section 5 (b) of the Farm Credit Act of 1937 to make ineligible for election to a district farm credit board any salaried officer or employee of the Farm Credit Administration or of any corporation operating under the supervision of the Farm Credit Administration. Any such officer or employee is now ineligible for appointment to membership on the district board. This amendment would not affect the term of office of any person serving on such board on the date of enactment of the bill.

Three of the 7 members of a district farm credit board are elected 1 each by 3 groups of associations in the district (national farm loan associations, production credit associations, and cooperatives which are stockholders or subscribers to the guaranty fund of the regional bank for cooperatives). Each of these groups is entitled to elect an additional director to the district farm credit board to serve in lieu of an appointed district director (or third district director), whenever, as determined by the Farm Credit Administration, the Government capital devoted to such group has either been returned or reduced below a specified level. Under existing law, such an election may not be begun until the required determination is made by the Farm Credit Administration as of the date 3 months before the expiration of the term of office to which the additional elected director is to succeed. Section 401 (b) would change such determination date from 3 months

to 6 months before the expiration of the term to which the additional elected director is to succeed and permit the Farm Credit Administration to begin such elections as much as 3 months earlier, or at any time within 6 months before the expiration of the term.

Nominations for appointment to Federal Farm Credit Board (sec. 402 (a)).—Twelve of the 13 members of the Federal Board are appointed by the President after considering nominations by the 3 voting groups in each farm credit district. If there should be a tie in the final voting by any of the three voting groups, present law provides that the election procedure shall be repeated for the particular group until the tie is broken. Section 402 (a) would eliminate the present requirement of any further election to break such a tie and would provide instead that all persons so tied shall be considered designated as nominees.

Term of office of members of Federal Farm Credit Board (sec. 402 (b) (c))

The term of office of the appointed members of the Federal Farm Credit Board now begins on December 1. Section 402 (c) would extend existing terms of office 4 months so that in the future the term of office of all successors would begin on April 1. Since there is a provision in the existing law as to how long a member of such Board shall be eligible to serve, section 402 (b) of the bill would amend that provision to permit a member to serve an additional 4 months if his term is one which would be extended for 4 months.

Separability provision (sec. 403)

Section 403 of the bill contains the usual separability provision and reserves the right to alter, amend, or repeal the enacted bill.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF JUNE 16, 1933

AN ACT To provide for organizations within the Farm Credit Administration to make loans for the production and marketing of agricultural products, to amend the Federal Farm Loan Act, to amend the Agricultural Marketing Act, to provide a market for obligations of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SECTION 1. This Act shall be known as the "Farm Credit Act of 1933."

* * * * * * *

SEC. 21. The stock of such associations shall be divided into shares of $5 each; and there shall be two classes of such stock: (1) Class A stock which is to be held by the Production Credit Corporations, and which may be purchased and held by investors, and (2) Class B stock which may be purchased only by farmer borrowers from the association and individuals eligible to become borrowers. Class B stock only shall be entitled to voting rights but each holder of such stock shall be entitled to no more than one vote. No Class B stock or any interest therein or right to receive dividends thereon, shall be transferred by act of parties or operation of law except to another farmer borrower or an individual eligible to become a borrower, and then only with the approval of the directors of the association.

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Each holder of Class B stock, within two years after he has ceased to be a borrower, shall exchange such Class B stock at the fair book value (not to exceed par) thereof, as determined by the association, for Class A stock. [All stock shall share in dividend distributions without preference] *Dividends may be paid on Class A stock and Class B stock without preference or on Class A stock alone, as the board of directors of the association may determine,* but the directors of the association, may, in their discretion, apply the amount of any dividend payable to a holder of Class B stock to any indebtedness of such holder to the association. Class A stock shall be preferred as to assets of the association upon liquidation. During such time as any Production Credit Corporation is a holder of any stock of any such association, the appointment or election of directors, the secretary-treasurer, and the loan committee of such association shall be subject to the approval of the president of the Production Credit Corporation and during such time any such director, secretary-treasurer, or other officer may, at any time, be removed by the president of the Production Credit Corporation.

[SEC. 22. Each Production Credit Association shall, at the end of its fiscal year, apply the amount of earnings in excess of operating expenses during such fiscal year, first, to making up any losses in excess of its reserve for bad and doubtful debts; second, to the restoration of the amount of the impairment, if any, of capital; third, to the creation and maintenance of a reserve account for bad and doubtful debts, the amount of which account shall be prescribed by the Production Credit Corporation; and, fourth, to the creation and maintenance of a guaranty fund equal to at least 25 per centum of the paid-in capital of the association. Any sums remaining may, with the approval of the Production Credit Corporation, be devoted to the payment of dividends but no rate of dividend in excess of 7 per centum per annum shall be paid. Sums in the guaranty fund herein provided for shall be invested subject to such rules and regulations as may be prescribed by the Production Credit Corporation.]

SEC. 22. (a) Each Production Credit Association shall, at the end of each fiscal year, apply the amount of its earnings in excess of operating expenses (including provision for reasonable valuation reserves) during such fiscal year, first, to the restoration of the impairment, if any, of capital; and, second, to the establishment and maintenance of a surplus account, the minimum amount of which shall be prescribed by the Production Credit Corporation.

(b) A Production Credit Association may pay dividends of not to exceed 7 per centum per annum when such payments are approved by the Production Credit Corporation of the district and are consistent with policies established under regulations issued by the Farm Credit Administration.

[SEC 23. Each Production Credit Association shall under such rules and regulations as may be prescribed by the Production Credit Corporation of the district with the approval of the Governor, invest its funds and make loans to farmers for general agricultural purposes, but such part of its funds as is represented by the guaranty fund provided for in section 22 shall not be devoted to making loans to farmers. Such loans shall be made on such terms and conditions, at such rates of interest, and with such security as may be prescribed by the Production Credit Corporation. No loan shall be made for a less amount than $50, nor shall any one borrower be indebted to the association at any one time in an amount in excess of 20 per centum of the capital and guaranty fund of the association or, if the loan is secured by collateral approved by the Corporation, in an amount in excess of 50 per centum of the capital and guaranty fund, but loans may be made to any borrower in an amount in excess of 50 per centum of the capital and guaranty fund if the loan is approved by the Production Credit Commissioner of the Farm Credit Administration. Borrowers shall be required to own, at the time the loan is made, class B stock in an amount equal in fair book value (not to exceed par), as determined by the association, to $5 per $100 or fraction thereof of the amount of the loan. Such stock shall not be canceled or retired upon payment of the loan but may be transferred or exchanged as provided in section 21.]

SEC. 23. Each Production Credit Association shall, under such rules and regulations as may be prescribed by the Production Credit Corporation of the district with the approval of the Farm Credit Administration, invest its funds and make loans to farmers for general agricultural purposes. Such loans shall be made on such terms and conditions, at such rates of interest, and with such security as may be prescribed by the corporation. No borrower shall be indebted to the association at any one time in an amount in excess of 15 per centum of the capital and surplus of the association unless the loan has the prior approval of the corporation, or in excess of 35 per centum of the capital and surplus of the association unless the loan also has the prior approval of the Farm Credit Administration. Borrowers shall be required to own, at the time

the loan is made, Class B stock of the association in an amount equal in fair book value (not to exceed par), as determined by the association, to $5.00 per $100 or fraction thereof of the amount of the loan. Such stock shall not be canceled or retired upon payment of the loan but may be transferred or exchanged as provided in section 21 of this Act.

* * * * * * *

[Board of Central Bank

[SEC. 31. (a) The board of directors of the Central Bank for Cooperatives shall consist of seven members, one of whom shall be the Cooperative Bank Commissioner of the Farm Credit Administration, who shall be chairman of the board of directors. The other six directors shall be appointed by the Governor, of whom the successors of the three first appointed shall be appointed from nominees selected by borrowers as provided in subsection (b). The terms of the directors first appointed shall be for one, two, and three years as designated by the Governor at the time of appointment and their successors shall hold their offices during a term of three years, but a director appointed to fill a vacancy shall hold his office for the unexpired term of the director whose place he is selected to fill. Any appointed director may at any time be removed for cause by the Governor. No compensation shall be paid any director as a director of the corporation, but the corporation, subject to the approval of the Governor, may allow directors a reasonable per diem and expenses.

[(b) The successors of three of the directors first appointed shall be selected one each year by the Governor from among individuals nominated by borrowers (except Banks for Cooperatives). The Governor shall, not less than sixty days prior to the end of the term of any director whose successor is to be appointed from among nominees as herein provided, or as soon as practicable after a vacancy occurs in the office of such director other than by the expiration of his term, cause notice of the vacancy to be sent to each borrower eligible to vote for nominees. Each such borrower shall be eligible to cast one vote. The Governor shall not count any ballot received after the expiration of thirty days after the sending of notice. From those (not exceeding three) receiving the highest number of votes, as shown by his count, the Governor shall appoint the director.]

SEC. 31. Board of Directors of Central Bank The Central Bank for Cooperatives shall have seven directors. Of this number four shall be appointed by the Governor of the Farm Credit Administration by and with the advice and consent of the Federal Farm Credit Board and three shall be elected by the regional banks for cooperatives and cooperative associations: Provided, That the terms of office of directors established prior to the effective date of title I of the Farm Credit Act of 1955 shall continue through the thirty-first day of December next following the effective date of said title I and shall expire at the end of that day. Three of the directors appointed by the Farm Credit Administration shall be appointed for terms of one year, two years, and three years respectively as designated at the time of appointment and the fourth appointed director shall be appointed for a term of three years and thereafter each appointed director shall be appointed for a term of three years. Any appointed director may be removed at pleasure at any time by the Farm Credit Administration. The Farm Credit Administration shall prescribe rules and regulations for the nominations and elections required by this section. Sufficiently in advance of the first day of January next following the effective date of title I of the Farm Credit Act of 1955, and at any time subsequent to the enactment thereof, the Farm Credit Administration shall take all action necessary in order to permit the elections hereby provided and shall group the several farm credit districts into three areas, each of which shall be comprised of four contiguous farm credit districts, and a director shall be elected from nominees from each of such areas by regional banks for cooperatives of the area and cooperative associations of the area eligible to vote. The three elected directors shall be elected for terms of one year, two years, and three years respectively, as shall be designated by the Farm Credit Administration and thereafter elected directors shall be elected for terms of three years: Provided, That whenever, as determined by the Farm Credit Administration, the sum of the capital stock and subscriptions to the guaranty fund of the Central Bank held by persons other than the Governor of the Farm Credit Administration on behalf of the United States and surplus and reserve accounts of said bank shall equal or exceed 66⅔ per centum of the total capital stock, subscriptions to the guaranty fund and surplus and reserve accounts of said bank as of the date six months before the expiration of the term of office of any appointed director, except the fourth appointed director, whose term next expires, the successor to such director shall be elected from nominees for a term of three years by regional banks for coopera-

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tives of the area and cooperative associations of the area eligible to vote on a basis of areas comprised of two contiguous farm credit districts as designated by the Farm Credit Administration. Appointed directors except the fourth appointed director shall continue to be replaced by elected directors in accordance with the foregoing provisions until the total number of elected directors shall be six, elected one from each of six such areas comprised of two contiguous farm credit districts. Whenever, as determined by the Farm Credit Administration, the sum of the capital stock and subscriptions to the guaranty fund of the Central Bank held by persons other than the Governor of the Farm Credit Administration on behalf of the United States and surplus and reserve accounts of said bank shall not equal or exceed 66⅔ per centum of the total capital stock, subscriptions to the guaranty fund and surplus and reserve accounts of the bank as of the date six months before the expiration of the term of office of any elected director whose term next expires, the successor to such elected director shall, if the number of elected directors then exceeds three, be appointed by the Governor of the Farm Credit Administration by and with the advice and consent of the Federal Farm Credit Board for a term of three years. In any such case where only one additional appointed director is needed in order to increase the total number of appointed directors to four, and the terms of office of more than one elected director next expire, the Farm Credit Administration shall designate the one of such next expiring terms of office which shall be replaced by the additional appointed director. Any vacancy in the board whether filled by appointment or by election shall be filled for the unexpired term in the same manner in which the vacant office was filled. Each regional bank for cooperatives, each cooperative association which is a direct borrower from the Central Bank, each holder of one or more shares of Class C stock in a regional bank for cooperatives which is eligible to vote under section 42 (a) (3), and each holder of one or more shares of stock in the Central Bank or any regional bank for cooperatives issued before the effective date of title I of the Farm Credit Act of 1955 which is eligible to vote shall be eligible to vote for directors of the Central Bank and each such holder shall be entitled to one vote only without regard to the number of shares held in any one or more of said banks, and the vote of any such holder of stock in more than one bank shall be cast only with respect to elections in the area in which is located the main office of such holder. Elected directors shall have been, for at least two years, residents of the area for which they are elected. No person shall be eligible for nomination, election or appointment as a director if such person has within one year next preceding the commencement of the term been a salaried officer or employee of the Farm Credit Administration or of any corporation operating under its supervision. Any person who is a member of the Federal Farm Credit Board or a district farm credit board when appointed or elected as director shall resign as a member of the Federal Farm Credit Board or the district board before assuming his duties as director of the Central Bank. No person who becomes such director shall be eligible to continue to serve if he becomes a member of the Federal Farm Credit Board or any district farm credit board or an officer or employee of the Farm Credit Administration or an officer or employee of any corporation operating under the supervision of the Farm Credit Administration.

[Powers of Chairman and Board

[SEC. 32. The chairman of the board of the corporation shall be the executive officer of the corporation and the powers of the board of directors shall be such powers as may be prescribed in the charter and bylaws.]

SEC. 32. Powers of Board of Directors of Central Bank. The board of directors of the Central Bank for Cooperatives shall elect a chairman and vice chairman from among its members. The powers of the board of directors shall be such powers as may be prescribed in the charter and bylaws with the approval of the Farm Credit Administration: Provided, That said board without limitation of powers conferred by section 60 shall have power, subject to approval of the Farm Credit Administration, to appoint and fix the compensation of the chief executive officer and such other officers and employees, experts, and consultants as may be necessary for the efficient conduct of the bank's business: Provided further, That the chief executive officer of the bank shall not be an officer or employee of the Farm Credit Administration.

SEC. 33. The capital stock of the Central Bank shall be in such amount as the Governor determines is required for the purpose of meeting the credit needs of eligible borrowers from the bank under this title, and the Governor may from time to time increase or decrease such amount, subject to the limitations contained in sections 35 and 37, in accordance with such needs. The stock of such bank shall be divided into shares of $100 each. Out of the revolving fund created under section 6 of the Agricultural Marketing Act, as amended, the Governor, on behalf of the United States, shall subscribe for and make payments for stock in

the Central Bank and such payments shall be subject to call in whole or in part by the [chairman of the board] *board of directors* of the Central Bank with the approval of the Governor.

SEC. 34. Subject to such terms and conditions as may be prescribed by the [chairman of its board of directors] *Farm Credit Administration*, the Central Bank is authorized: (a) to make loans to cooperative associations as defined in the Agricultural Marketing Act, for any of the purposes and subject to the conditions and limitations set forth in such Act, as amended; (b) to make loans (by way of discount or otherwise) to banks for cooperatives organized under section 2 of this Act; (c) to buy from, and sell to any such bank or any Federal intermediate credit bank any note, draft, bill of exchange, debenture, or other obligation, or any interest therein; and (d) to borrow from, and discount or rediscount paper with, any and all such banks and commercial banks. Notwithstanding any limitations or conditions imposed by law, but subject to the availability of funds, the Central Bank for Cooperatives shall have power and authority to make separate loans to cooperative associations as defined in the Agricultural Marketing Act, as amended, for the purpose of financing the construction of structures for the storage of agricultural commodities (other than structures to provide refrigerated cold storage or structures located in areas in which existing privately owned storage facilities for the commodity concerned are adequate) in amounts up to a maximum of 80 per centum of the cost of such structures, as approved by such bank: *Provided*, That the cooperative association which has applied for any loan shall have furnished to such bank an appropriate commitment from the Commodity Credit Corporation that the Commodity Credit Corporation will lease or guarantee utilization of not less than 75 per centum of the storage space contained in such structures when completed for a period of at least three years if such structures were not additions to existing structures or two years if such structures are additions to existing structures.

[Stock Subscriptions of Borrowers From Central Bank

[SEC. 35. (a) Cooperative associations borrowing from the Central Bank shall be required to own, at the time the loan is made, an amount of stock of the bank equal in fair book value (not to exceed par), as determined by the bank, to $100 per $2,000 or fraction thereof of the amount of the loan, except that, in connection with any loan made on the security of commodities, the borrower shall be required to own, at the time the loan is made, only such amount of stock as may be prescribed by rules and regulations of the Governor. Upon discharge of the loan, stock held by the borrowing association may be, and upon the concurrent or subsequent request of the borrowing association shall be, retired and canceled, and the association shall be paid therefor an amount equal to the amount paid for such stock or loaned to subscribe therefor, as the case may be, minus the pro rata impairment, if any, of capital and guaranty fund of the Central Bank, as determined by the Chairman of the Board of the Central Bank.

[(b) In any case in which a cooperative association applying for a loan is not authorized, under the law of the State in which it is organized, to subscribe for stock in the Central Bank, the bank shall, in lieu of stock subscription, require the borrowing association to pay into a guaranty fund, or the bank may retain out of the amount of the loan and credit to the guaranty fund, an amount equal to the amount which the borrowing association would have been required to own in stock if such association had been authorized to hold such stock. Upon discharge of its loan, the provisions of the last sentence of subsection (a) shall apply with respect to sums of such association in the guaranty fund in the same manner as if such sums were represented by stock.

[(c) In any case where the debt of a borrower to the Cent Bank is in default, the bank may, in accordance with rules and regulations prescribed by the governor, retire and cancel all or a part of the stock of the defaulting borrower at the fair book value thereof (not exceeding par), in total or partial liquidation of the debt, as the case may be.]

SEC. 35. Application of regional bank stock provisions to Central Bank. All provisions of law with respect to Class A, Class B, and Class C stock in the regional banks for cooperatives shall apply to the Central Bank for Cooperatives except as they may be inconsistent with the provisions of this section. Each borrower from the Central Bank shall be required to own at the time the loan is made at least one share of Class C stock in such regional bank as the Farm Credit Administration shall designate and shall be required to invest quarterly in Class C stock in such regional bank or banks as the Farm Credit Administration shall designate an amount equal to not less than

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10 nor more than 25 per centum, as prescribed by the board of directors of the Central Bank with the approval of the Farm Credit Administration, of the amount of interest payable by such borrower to the Central Bank during the calendar quarter. Payments for such stock shall be made quarterly or when the regular interest payments of such borrower are payable; but the stock shall be issued to the borrower as of the end of each fiscal year in the amount of the payments for stock made by it during such year. The regional bank whose stock is so issued to such borrower shall purchase a corresponding amount of Class C stock in the Central Bank.

[Earnings and Reserves of Central Bank

[SEC. 36. The Central Bank for Cooperatives shall, at the end of its fiscal year, apply the amount of its earnings in excess of operating expenses during such fiscal year, first, to making up any losses incurred; second, to the restoration of the amount of the impairment, if any, of capital and guaranty fund as determined by the chairman of the board; and at least 25 per centum of the remainder of such excess of earnings shall be applied to the creation and maintenance of a surplus equal to at least 25 per centum of the amount of capital and guaranty fund. Any sums remaining may, with the approval of the chairman of the board, be devoted to the payment of dividends. Subscribers to the guaranty fund shall be entitled to dividends in the same amounts as subscribers to stock. No rate of dividend in excess of 7 per centum per annum shall be paid. Dividends on stock held by the Governor, when paid, shall be credited to the revolving fund created under section 6 of the Agricultural Marketing Act, as amended.]

SEC. 36. (a) Application of savings. Each bank for cooperatives, at the end of each fiscal year, shall determine the amount of its net savings after paying or providing for all operating expenses (including reasonable valuation reserves and losses in excess of any such applicable reserves) and shall apply such savings as follows: (1) To the restoration of the amount of the impairment, if any, of capital stock, as determined by its board of directors; (2) 25 per centum of any remaining savings shall be used to create and maintain a surplus account; (3) if said bank shall have outstanding capital stock held by the United States during the whole or any part of the fiscal year, it shall next pay to the United States as a franchise tax, a sum equal to 25 per centum of its net savings then remaining, not exceeding, however, a rate of return on such Government capital calculated at a rate equal to the computed average annual rate of interest on all public issues of public debt obligations of the United States issued during the fiscal year ending next before such tax is due, as certified to the Farm Credit Administration by the Secretary of Treasury; (4) reasonable contingency reserves may be established; (5) dividends on Class B stock may be declared as provided in section 42 (a) (2); and (6) any remaining net savings shall be distributed as patronage refunds as provided in subsection (b) of this section: Provided, That any patronage refunds received by a regional bank from the Central Bank shall be excluded from net savings of the regional bank for the purpose of computing such franchise tax. Amounts applied as provided in (2) and (4) above after the effective date of title I of the Farm Credit Act of 1955 shall be allocated on a patronage basis approved by the Farm Credit Administration. At the end of any fiscal year, any portion of the reserve established under (4) above which is no longer deemed necessary shall be transferred to the surplus account and, if the surplus account of any such bank for cooperatives exceeds 25 per centum of the sum of all its outstanding capital stock, the bank may distribute in the same manner as a patronage refund any part or all of such excess which has been allocated. In making such distributions, the oldest outstanding allocations shall be distributed first. Wherever used in this Act, the words "surplus account" as applied to any bank for cooperatives shall mean any surpluses and contingency reserves shown on the books of the banks as of the effective date of title I of the Farm Credit Act of 1955 and any amounts applied as provided in (2) above after the effective date of said title I. Said surplus account shall be divided to show the amounts thereof subject to allocation as provided in this section and may be further subdivided as prescribed by the Farm Credit Administration. In the event of a net loss in any fiscal year after providing for all operating expenses (including reasonable valuation reserves and losses in excess of any such applicable reserves), such loss shall be absorbed by: first, charges to allocated contingency reserves; second, charges to allocated surplus; third, charges to other contingency reserves and surplus; fourth, the impairment of Class C stock; and fifth, the impairment of all other stock.

(b) Patronage refunds. The patronage refunds of each regional bank for cooperatives shall be paid in Class C stock to borrowers, as defined by the Farm Credit Administration for the purposes of this subsection, during the fiscal year for which the refunds are declared. Patronage refunds of the Central Bank for Cooperatives shall

be paid in Class C stock to the regional banks for cooperatives upon the basis of interests held by the Central Bank in loans made by the regional banks and upon direct loans made by the Central Bank to cooperative associations; and any part of such refunds derived from such direct loans of the Central Bank shall be paid in Class C stock issued to the regional bank or banks which issued to the borrower the stock incident to the loans, or to a regional bank or banks designated by the Farm Credit Administration, and such bank or banks shall issue a like amount of Class C stock to the borrowers. All patronage refunds shall be paid in the proportion that the amount of interest earned on the loans of each borrower bears to the total interest earned on the loans of all borrowers during the fiscal year.

(c) *Application of assets on liquidation or dissolution. In the case of liquidation or dissolution of any bank for cooperatives, after the payment or retirement, as the case may be, first, of all liabilities; second, of all capital stock issued before the effective date of title I of the Farm Credit Act of 1955 held by cooperative associations at par, all Class A stock at par, and all Class B stock at par; and third, of all Class C stock at par; any surpluses and contingency reserves existing on the effective date of said title I shall be paid to the holders of outstanding capital stock issued before the effective date of said title I, Class A stock and Class C stock pro rata, and any remaining surplus and contingency reserves shall be distributed to those entities to which they are allocated on the books of the bank. If it should become necessary to use any surplus or contingency reserves to pay any liabilities or to retire any capital stock, allocated contingency reserves and surplus shall be exhausted first in accordance with rules prescribed by the Farm Credit Administration.*

* * * * * * *

SEC. 38. The Governor shall, by regulation or by prescribing the terms of the charters issued to the Central Bank for Cooperatives and the Banks for Cooperatives, or both, provide such limitations as between the two types of banks, on the classes of borrowers to which loans may be made and the amount of the loans which may be made to individual borrowers, as will best insure the absence of duplication of effort by the two types of banks and will secure the greatest efficiency in extending the benefits of this title and title IV to borrowers. *After the effective date of title I of the Farm Credit Act of 1955 any amendment in the terms of the charter issued to any bank for cooperatives and any regulation issued under authority of this section or otherwise affecting lending operations of any such bank shall be consistent with the principle that the Central Bank shall make loans only in cases where it is not practicable for the loan to be made by a regional bank.*

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SEC. 41. Subject to such terms and conditions as may be prescribed by the Farm Credit Administration, the banks for cooperatives are authorized (a) to make loans to cooperative associations as defined in the Agricultural Marketing Act, as amended, for any of the purposes and subject to the conditions and limitations set forth in such Act, as amended; (b) to make loans (by way of discount or otherwise) to any bank organized under this Act; (c) to buy from, and sell to, any such bank or any Federal intermediate credit bank any note, draft, bill of exchange, debenture, or other obligation, or any interest therein; and (d) to borrow from, and discount or rediscount paper with, any and all such banks and commercial banks. Notwithstanding any limitations or conditions imposed by law, but subject to the availability of funds, each Bank for Cooperatives shall have power and authority to make separate loans to cooperative associations as defined in the Agricultural Marketing Act, as amended, for the purpose of financing the construction of structures for the storage of agricultural commodities (other than structures to provide refrigerated cold storage or structures in areas in which existing privately owned storage facilities for the commodity concerned are adequate) in amounts up to a maximum of 80 per centum of the cost of such structures, as approved by the Bank for Cooperatives to whom application is made for the loan: *Provided*, That the cooperative association which has applied for any loan shall have furnished to the Bank for Cooperatives an appropriate commitment from the Commodity Credit Corporation that the Commodity Credit Corporation will lease or guarantee utilization of not less than 75 per centum of the storage space contained in such structures when completed for a period of at least three years if such structures are not additions to existing structures, or two years if such structures are additions to existing structures.

Notwithstanding any other provision of law, any officer or employee of the Farm Credit Administration or of any bank for cooperatives designated to act as custodian of collateral securing loans made by any such bank to any cooperative association eligible to borrow therefrom may, in accordance with regulations of the Farm Credit

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Administration, act at the same time as custodian of collateral securing loans made by any other lenders to any cooperative association eligible to borrow from any such bank.

[Stock Subscriptions and Earnings and Reserves

[SEC. 42. The provisions of section 35, as amended, and the provisions of section 36, as amended, shall apply in the case of Banks for Cooperatives in the same manner and to the same extent as such provisions are applicable to the Central Bank for Cooperatives, except that powers conferred on the Chairman of the Board of the Central Bank for Cooperatives shall be exercised by the Boards of Directors of the Banks for Cooperatives, subject to the approval of the Farm Credit Administration.]

SEC. 42. (a) Classes of stock; ownership; voting rights; dividends; and retirement of stock. Except as provided in section 12 of the Farm Credit Act of 1955, each regional bank for cooperatives shall have the following classes of stock, all of which shall have a par value of $100 per share:

(1) Class A stock shall be issued to and held by the Governor of the Farm Credit Administration on behalf of the United States, and stock of such banks held by the Governor on the effective date of the Farm Credit Act of 1955 shall be exchanged, share for share, for Class A stock of the respective banks. Class A stock shall be nonvoting and no dividends shall be paid thereon. At the end of each fiscal year, each of such banks, subject to the provisions of sections 33 and 40, shall determine the amount of Class A stock that shall be retired at par by that bank. The minimum amount of Class A stock that shall be retired shall be the equivalent in dollar value of the amount of Class C stock issued for that year, except that Class C stock issued by a regional bank on account of Class C stock issued to it by the Central Bank, Class C stock issued by a regional bank in exchange for Class B stock the proceeds of which were used to retire an equivalent amount of Class A stock, and Class C stock issued by a regional bank in exchange for capital stock of the bank outstanding on the effective date of the Farm Credit Act of 1955, shall not be included in such bank's calculation. Any amount of Class A stock retired in any one year in excess of the minimum amount required to be retired may be used to reduce to the extent of such excess the amount of such stock required to be retired in any subsequent year. Funds from the retirement of Class A stock shall be paid into the revolving fund authorized by the Agricultural Marketing Act, as amended, and shall continue to be available for the purchase of Class A stock in the banks in accordance with sections 33 and 40.

(2) Class B stock may be issued in series and amounts approved by the Farm Credit Administration, and may be sold or transferred to any person subject to the approval of the issuing bank. Such stock shall be issued only at par and shall be nonvoting. Any bank may pay dividends of not to exceed 4 per centum per annum on Class B stock if declared by the board of directors and approved by the Farm Credit Administration and if the surplus account of the bank, after payment of such dividends, will not be less than 25 per centum of the sum of all its outstanding capital stock. Dividends on Class B stock shall not be cumulative, but no bank shall distribute in any year any of its net savings as patronage refunds as provided in section 36 (a) unless for that year a dividend of at least 2 per centum is declared and paid upon outstanding Class B stock of the bank. Each series of Class B stock shall be issued only with the approval of the Farm Credit Administration and shall carry on the face of each certificate a statement of the maximum dividend which may be declared and paid thereon and of the minimum dividend which shall be declared and paid thereon before the bank may distribute any of its net savings as patronage refunds: Provided, That such maximum and minimum dividends may be the same amount. After all Class A stock has been retired, Class B stock may be called for retirement at par with the approval of the Farm Credit Administration and shall be called in such manner that the oldest outstanding stock at any given time will be retired first. Any holder of Class B stock whose stock has been called for retirement may elect, with the approval of the issuing bank, to leave his stock in the bank subject to its being included in the next call for retirement.

(3) Class C stock, except as approved by the Farm Credit Administration and consented to by the issuing bank, may be issued only to banks for cooperatives and farmers' cooperative associations as defined in section 15 (a) of the Agricultural Marketing Act, as amended. Such stock may be issued in fractional shares, shall be issued at its fair book value not exceeding par, as determined by the bank, and no dividends shall be paid on it. Each holder of one or more shares of Class C stock which is eligible to borrow from a bank for cooperatives shall be entitled to one vote only: Provided, That any such holder which within the period of two years next preceding a date, fixed by the Farm Credit Administration, prior to commencement of the voting has not been a borrower from a bank of which it holds Class C stock shall

not be entitled to vote. From time to time each bank for cooperatives shall obtain information concerning its Class C stockholders to determine whether they continue to be eligible to borrow from the bank and to vote. Any Class C stockholder found by the bank to be ineligible to borrow shall not be entitled to vote until its eligibility is reestablished to the satisfaction of the bank. Whenever in section 5 of the Farm Credit Act of 1937, as amended, and section 4 (a) of the Farm Credit Act of 1953, provision is made for a nomination or election by cooperatives which are stockholders or subscribers to the guaranty fund of any bank for cooperatives the term "cooperatives which are stockholders or subscribers to the guaranty fund" or the equivalent of that term, shall mean such cooperatives which are eligible to vote. Each borrower from a bank for cooperatives shall be required to own at the time the loan is made at least one share of Class C stock. The purchase price of such stock may be retained out of the loan. In addition, each borrower as defined by the Farm Credit Administration for purposes of this sentence, shall be required to invest quarterly in Class C stock an amount equal to not less than 10 nor more than 25 per centum, as prescribed by the board of directors of the bank with the approval of the Farm Credit Administration, of the amount of interest payable by it to the bank during the calendar quarter. Payments for such stock shall be made quarterly or when the regular interest payments of the borrower are payable; but the stock shall be issued to the borrower as of the end of each fiscal year in the amount of the payments for stock made by it during the year. Each regional bank shall purchase at least one share of Class C stock of the Central Bank. In addition, the regional bank shall be required to invest quarterly in Class C stock of the Central Bank an amount equal to not less than 10 nor more than 25 per centum, as prescribed by the board of directors of the Central Bank with the approval of the Farm Credit Administration, of the amount of interest payable by the regional bank to the Central Bank during the calendar quarter by reason of any interest purchased by the Central Bank in a loan made by the regional bank. Payments for such stock shall be made to the Central Bank and the stock shall be issued to the regional bank in the same manner, insofar as practicable, as is provided in this section for payments for and issuance of stock on account of loans by the regional bank in which the Central Bank does not purchase any interest. Subject to rules prescribed by the board of directors of the lending bank with the approval of the Farm Credit Administration, a borrower may convert Class B stock into Class C stock for the purpose of making the investment in Class C stock required by this paragraph. After retirement of all Class A stock Class C stock also may be retired at par by calling the oldest outstanding Class C stock but Class C stock that was issued for a fiscal year period shall not be called for retirement until all Class B stock that was issued during or prior to that fiscal year has been called for retirement.

(b) Guaranty fund subscriptions in lieu of stock. If a cooperative association is not authorized under the laws of the State in which it is organized to take stock in the bank, the bank shall, in lieu thereof, require the association to pay into or have on deposit in a guaranty fund of the bank, or the bank may retain out of the amount of the loan and credit to the guaranty fund, a sum equal to the amount of Class C stock which the association would otherwise be required by subsection (a) (3) of this section to own at the time the loan is made and to purchase thereafter. Any such association may make additional payments into the guaranty fund from time to time in lieu of the purchase of Class B stock, and shall receive credits to such fund in lieu of patronage refunds payable in Class C stock. Each reference in this Act to capital stock or Class B or Class C stock shall include also the guaranty fund equivalents of such stock, and, to the extent permitted under the laws of a State in which a cooperative association is organized, a holder of guaranty fund equivalents of either Class B or Class C stock shall have the same rights and status as a holder of Class B or Class C stocks, respectively. The rights and obligations of the bank as respects such guaranty fund equivalents shall be identical to its rights and obligations as respects Class B or Class C stock, respectively.

(c) Lien on stock. Except as hereinafter provided in the case of an association which is a direct borrower from the Central Bank, each bank for cooperatives shall have a first lien on all stock in the bank owned by each cooperative association as additional collateral for any indebtedness of such association to the bank. In the case of an association which is a direct borrower from the Central Bank, the Central Bank shall have a first lien on any amount of Class C stock which the borrowing association owns in any regional bank on account of direct loans of such association from the Central Bank; and the regional bank shall have a lien on such stock junior only to the lien of the Central Bank. In any case where the debt of a borrower is in default, the bank may, in accordance with regulations of the Farm Credit Administration, retire and cancel all or a part of the stock of the defaulting borrower at the fair book value thereof, not exceeding par, in total or partial liquidation of the debt, as the case may be, and,

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to the extent required, corresponding shares held by a regional bank in the Central Bank shall be retired.

(d) Calculation of proportionate interests in banks. For the purpose of determining pursuant to section 5 (d) (2) (C) of the Farm Credit Act of 1937, as amended, the amount of the capital stock and subscriptions to the guaranty fund of a regional bank for cooperatives held by cooperatives the term "capital stock and subscriptions to the guaranty fund held by cooperatives" or the equivalent of that term shall also mean all outstanding Class B and Class C stock and the guaranty fund equivalents thereof.

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SEC. 63. The Central Bank for Cooperatives, and the Production Credit Corporations, Production Credit Associations, and Banks for Cooperatives, organized under this Act, and their obligations, shall be deemed to be instrumentalities of the United States, and as such, any and all notes, debentures, bonds, and other such obligations issued by such banks, associations, or corporations shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or by any State, Territorial, or local taxing authority. Such banks, associations, and corporations, their property, their franchises, capital, reserves, surplus, and other funds, and their income, shall be exempt from all taxation now or hereafter imposed by the United States or by any State, Territorial, or local taxing authority; except that any real property and any tangible personal property of such banks, associations, and corporations shall be subject to Federal, State, Territorial, and local taxation to the same extent as other similar property is taxed. The exemption provided herein shall not apply with respect to any Production Credit Association or its property or income after the *Class A* stock held in it by the Production Credit Corporation has been retired, or with respect to the Central Bank for Cooperatives, or any Production Credit Corporation or Bank for Cooperatives, or its property or income after the stock held in it by the United States has been retired.

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SEC. 65 Upon default of any obligation of any Production Credit Corporation, Production Credit Association, or [regional] Bank for Cooperatives, such bank, association, or corporation may be declared insolvent and placed in the hands of a receiver by the Governor and proceedings shall thereupon be had in accordance with the provisions of law relating to the insolvency of national farm loan associations. Any such bank, association, or corporation may, with the consent of the Governor, liquidate voluntarily, but only in accordance with such rules and regulations as the Governor may prescribe.

[SEC. 66. No director, officer, or employee of the Central Bank for Cooperatives, or of any Production Credit Corporation, Production Credit Association, or Bank for Cooperatives shall be paid compensation in excess of $13,800 per annum.]

ACT OF JUNE 15, 1929

AN ACT To establish a Federal Farm Board to promote the effective merchandising of agricultural commodities in interstate and foreign commerce, and to place agriculture on a basis of economic equality with other industries

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SEC. 8. [(a) Loans to any cooperative association shall bear such rates of interest as the Governor of the Farm Credit Administration shall from time to time determine to be necessary for the needs of the lending agencies and shall by regulation prescribe (but in no case shall the rate of interest exceed 6 per centum per annum on the unpaid principal): *Provided, however*, That the rate of interest on any loan made under the provisions of section 7 (a) (1) hereof, other than upon the security of commodities, shall conform as nearly as may be practicable to a rate 1 per centum in excess of the prevailing interest rate paid by production credit associations to the Federal intermediate credit bank of the farm credit district in which the principal business office of the borrower is located; the rate of interest on any loan made upon the security of commodities shall conform, as nearly as may be practicable, to the prevailing interest rate on commodity loans charged borrowers from the Federal intermediate credit bank of the farm credit district in which the principal business office of the borrower is located; and that the rate of interest on any loan made under the provisions of section 7 (a) (2) hereof shall conform as nearly as may be practicable to the prevailing rate on mortgage loans made to members of national farm loan associations.]

(a) Loans to cooperative associations made by any bank for cooperatives shall bear such rates of interest as the board of directors of the bank shall from time to time determine with the approval of the Farm Credit Administration, but in no case shall the rate of interest exceed 6 per centum per annum on the unpaid principal of a loan.

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ACT OF AUGUST 6, 1953

AN ACT To increase farmer participation in ownership and control of the Federal Farm Credit System; to create a Federal Farm Credit Board; to abolish certain offices; to impose a franchise tax upon certain farm credit institutions; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE —

SECTION 1. This Act may be cited as the "Farm Credit Act of 1953".

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SEC. 4. (a) There shall be established, in the Farm Credit Administration, a Federal Farm Credit Board (hereinafter referred to as the "Board"). Said Board shall consist of thirteen members. Twelve of the members, one from each of the farm credit districts of the United States, shall be known as appointed members and shall be appointed by the President with the advice and consent of the Senate. In making appointments to the Board the President shall have due regard to a fair representation of the public interest, the welfare of all farmers and the various types of cooperative agricultural credit interests; shall give special consideration to persons who are experienced in cooperative agricultural credit; and shall, before making such appointments, receive and consider nominations made as follows: The national farm loan associations in the district shall designate one nominee, the production credit associations in the district shall designate one nominee, and the cooperatives which are stockholders or subscribers to the guaranty fund of the bank for cooperatives of the district shall designate one nominee, in accordance with the procedure prescribed in sections 5 (e) and 5 (f) of the Farm Credit Act of 1937 for the nomination and election of members of a district farm credit board, except that only the two persons receiving the highest number of votes shall be included in the list of nominees prepared as a result of the voting under the procedure prescribed in said section 5 (e): *Provided*, That the names of all those who are tied for second place as a result of said voting shall be included in the list; and in case of a tie in the voting under the procedure prescribed in said section 5 (f) [the procedure prescribed therein shall be followed again until the tie is broken] *all persons so tied shall be considered designated as nominees: And provided further*, That if the same person would otherwise be on the list of nominees of more than one of said groups as a result of the voting under said section 5 (e) he may choose the one list on which his name shall appear, and otherwise his name shall appear only on the list of the two highest nominees of the group which gave him the highest percentage of its votes. Subsequent appointments shall be made after receiving and considering nominations made in like manner.

(b) Each appointed member of said Board shall be a citizen of the United States and shall have been a resident of the farm credit district from which appointed for not less than ten years next preceding his appointment, and the removal of residence from the district during his tenure shall operate as a termination of his membership on said Board. No appointed member of said Board shall be eligible to serve for more than one full term of six years, and, in addition, a term of less than six years if he is one of the first members to be appointed, or is appointed to fill, the unexpired portion of one term expiring before his appointment to a full term, *except that one full term of six years shall be considered to include an additional four months if the particular term is one which was legally extended for an additional four months.* No person shall be eligible for nomination or appointment to membership as an appointed member on said Board if such person has within one year next preceding the commencement of the term been a salaried officer or employee of the Farm Credit Administration, or a salaried officer or employee of any corporation operating under the supervision of the Farm Credit Administration. Any person who is a member of the district farm credit board when appointed as a member of the Federal Farm Credit Board shall resign as a member of the district board before assuming his duties as a member of the Federal Farm Credit Board. No person who becomes an appointed member of said Board shall be eligible to continue to serve as a member thereof if such person becomes a member of any district farm credit board, or an officer or employee of

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the Farm Credit Administration, or an officer or employee of any corporation operating under the supervision of the Farm Credit Administration.

(c) The term of office of the appointed members of said Board shall be six years, beginning with the first day of the calendar month in which this Act takes effect, and such members shall serve until their successors are duly appointed and qualified; however, of the first appointed members appointed hereunder, two shall be appointed for a term of one year from said date, two for a term of two years, two for a term of three years, two for a term of four years, two for a term of five years, and two for a term of six years. All vacancies in the offices of appointed members on said Board shall be filled for the unexpired portion of the term upon like nominations and by like appointments as herein provided for the appointment of the first such members of said Board. *All terms of office which otherwise would expire on November 30 of any year following enactment of the Farm Credit Act of 1955 are extended four months to expire on the following March 31 so that the term of office of all successors to the terms so extended shall begin with the first day of April.*

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SEC. 7. (a) The offices of the Land Bank Commissioner, Production Credit Commissioner, Cooperative Bank Commissioner, and Intermediate Credit Commissioner are hereby abolished. [The Governor shall designate an officer or employee of the Farm Credit Administration to serve at the pleasure of the Governor as a member of the board of directors of the Central Bank for Cooperatives, as chairman of said board of directors, and as executive officer of said bank, in lieu of the Cooperative Bank Commissioner.] The Governor shall designate an officer or employee of the Farm Credit Administration to serve at the pleasure of the Governor as a member of the board of directors of the Federal Farm Mortgage Corporation, in lieu of the Land Bank Commissioner. The Federal Farm Mortgage Corporation and its functions and activities are hereby transferred to the Farm Credit Administration and shall be administered therein under the general direction and supervision thereof.

ACT OF JANUARY 23, 1932

AN ACT To amend the Federal Farm Loan Act, as amended, to provide for additional capital for Federal land banks, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SEC. 6. The Farm Credit Administration is authorized to make such rules and regulations, not inconsistent with law, as it deems necessary or requisite for the efficient execution of the provisions of the Federal Farm Loan Act, *the Farm Credit Act of 1933*, and/or any Act or Acts amendatory thereof or supplementary thereto.

ACT OF JULY 17, 1916

AN ACT To provide capital for agricultural development, to create standard forms of investment based upon farm mortgage, to equalize rates of interest upon farm loans, to furnish a market for United States bonds, to create Government depositaries and financial agents for the United States and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the short title of this Act shall be "The Federal Farm Loan Act."

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SEC. 3.

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[The Farm Credit Administration shall prescribe a form for the statement of condition of national farm loan associations and land banks under its supervision, which shall be filled out quarterly by each such association or bank and transmitted to said administration.]

The Farm Credit Administration shall prescribe a form for the statement of condition of national farm loan associations and land banks under its supervision, which shall be filled out by each such association or bank and transmitted to said administration as required by it.

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SEC. 5.

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[It shall be the duty of the Secretary of the Treasury on behalf of the United States, upon the request of the board of directors of any Federal land bank made with the approval of the Farm Credit Administration, to subscribe from time to time for capital stock of such bank in an amount or amounts specified in such approval or approvals, such subscriptions to be subject to call in whole or in part by the board of directors of said bank upon thirty days' notice with the approval of the Farm Credit Administration. The Secretary of the Treasury is hereby authorized and directed to take out and pay for shares having an aggregate par value equal to the amounts so called; and to enable the Secretary of the Treasury to pay for stock issued hereunder there is hereby authorized to be appropriated the sum of $125,000,000 such stock to be nonvoting. Shares of stock issued pursuant to this paragraph shall be paid off at par and retired in the same manner as the original capital stock of said bank after said original stock outstanding, if any, has been paid off and retired: *Provided, however*, That stock issued pursuant to this paragraph may at any time, in the discretion of the directors and with the approval of the Farm Credit Administration, be paid off at par and retired in whole or in part; and that said Administration may at any time require such stock to be paid off at par and retired in whole or in part if in the opinion of the Administration the bank has resources available therefor. The proceeds of all repayments on account of stock issued pursuant to this paragraph shall be held in the Treasury of the United States and shall be available for the purpose of paying for other stock thereafter issued pursuant to this paragraph.]

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SEC. 7.

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It shall be the duty of the secretary-treasurer of every national farm loan association to act as custodian of its funds and to deposit the same in such bank as the board of directors may designate, to pay over to borrowers all sums received for their account from the Federal land bank upon first mortgage as in this Act prescribed, and to meet all other obligations of the association, subject to the orders of the board of directors and in accordance with the by-laws of the association. It shall be the duty of the secretary-treasurer, acting under the direction of the national farm loan association, to collect, receipt for, and transmit to the Federal land bank payments of interest, amortization installments, or principal arising out of loans made through the association. He shall be the custodian of the securities, records, papers, certificates of stock, and all documents relating to or bearing upon the conduct of the affairs of the association. He shall furnish a suitable surety bond to be prescribed and approved by the Farm Credit Administration for the proper performance of the duties imposed upon him under this Act, which shall cover prompt collection and transmission of funds. [He shall make a quarterly report to the Farm Credit Administration upon forms to be provided for that purpose.] *He shall make a report to the Farm Credit Administration as required by it upon forms to be provided for that purpose.* Upon request from said Administration said secretary-treasurer shall furnish information regarding the condition of the national farm loan association for which he is acting, and he shall carry out all duly authorized orders of said Administration. He shall assure himself from time to time that the loans made through the national farm loan association of which he is an officer are applied to the purposes set forth in the application of the borrower as approved, and shall forthwith report to the land bank of the district any failure of any borrower to comply with the terms of his application or mortgage. He shall also ascertain and report to said bank the amount of any delinquent taxes on land mortgaged to said bank and the name of the delinquent. No such secretary-treasurer shall engage in the making of land mortgage loans eligible at a Federal land bank through or for any other land mortgage company or agency, and the making of any such loan by any secretary-treasurer shall forthwith work a forfeiture of his office.

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SEC. 8.

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Every national farm loan association formed under this Act shall by its articles of association provide for an increase of its capital stock from time to time for the purpose of securing additional loans for its members and providing for the issue of shares to borrowers in accordance with the provisions of this

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Act. [Such increases shall be included in the quarterly reports to the Farm Credit Administration.]

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SEC. 10.

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Notwithstanding any other provision of this Act to the contrary, subject to the approval of the Farm Credit Administration, the investigation and the written report or reports on the value of the security offered for a Federal land bank loan, which otherwise are required by this section to be made by land bank appraisers appointed under the authority of section 3 of this Act, may be made, in accordance with appraisal standards prescribed by the Farm Credit Administration, by any person (including a person who is secretary-treasurer of a national farm loan association) designated so to do by the Federal land bank of the district; a Federal land bank is authorized to make a loan, if otherwise authorized, on the basis of such an investigation and report by a person so designated; and a loan so made shall be eligible as collateral for farm loan bonds under section 19 of this Act, if otherwise qualified thereunder: Provided, That, within one year, the land bank shall obtain a written report on the security for the loan by a land bank appraiser appointed under section 3 of this Act, in terms and form prescribed by the Farm Credit Administration, and such a loan shall be eligible as collateral for farm loan bonds thereafter only if such report by a land bank appraiser establishes that the security meets the standards prescribed by the Farm Credit Administration for a land bank loan, and in no event shall any such loan thereafter be carried as such collateral for bonds at more than 65 per centum of the normal value of the security as determined by such land bank appraiser. Except as otherwise specifically provided in this paragraph, all provisions of this Act relating to loans made through national farm loan associations shall, insofar as applicable, apply with respect to loans made on such investigations and written reports by such designated persons.

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SEC. 12.

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Fourth. [Such loans may be made for the following purposes and for no other:

[(a) To provide for the purchase of land for agricultural uses.

[(b) To provide for the purchase of equipment, fertilizers, and livestock necessary for the proper and reasonable operation of the mortgaged farm; the term "equipment" to be defined by the Farm Credit Administration.

[(c) To provide buildings and for the improvement of farm lands; the term "improvement" to be defined by the Farm Credit Administration.

[(d) To liquidate indebtedness of the owner of the land mortgaged incurred for agricultural purposes, or incurred at least two years prior to the date of the application for the loan.

[(e) To provide the owner of the land mortgaged with funds for general agricultural uses.]

Such loans may be made for general agricultural purposes and other requirements of the owner of the land mortgaged, under rules and regulations of the Farm Credit Administration.

Fifth. No such loan shall exceed 65 per centum of the normal value of the farm mortgaged, said value to be ascertained by appraisal, as provided in section 10 of this Act. In making said appraisal the value of the farm for agricultural purposes shall be the basis of appraisal and the normal earning power of said farm shall be a principal factor; *and, consistent with community standards, the appraisal may also reflect home advantages, and the availability to a typical operator of the property of earnings from other dependable sources to supplement the normal earning power of the farm.*

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Sixth. No such loan shall be made to any person who is not at the time, or shortly to become, engaged in farming operations or to any other person unless the principal part of his income is derived from farming operations. In case of the sale of the mortgaged land, the Federal land bank may permit said mortgage and the stock interests of the vendor to be assumed by the purchaser. In case of the death of the mortgagor, his heir or heirs, or his legal representative or representatives, shall have the option, within sixty days of such death, to assume the mortgage and stock interests of the deceased. As used in this paragraph (1) the term "person" includes an individual or a corporation engaged in [the raising of livestock] *farming operations;* and (2) the term "corporation" includes any incorporated association; but no such loan shall be made to a corporation (A) unless

all the stock of the corporation is owned by individuals themselves personally actually engaged in [the raising of livestock] *farming operations* on the farm to be mortgaged as security for the loan, except in a case where the [Land Bank Commissioner] *Farm Credit Administration* permits the loan if at least 75 per centum in value and number of shares of the stock of the corporation is owned by the individuals personally actually so engaged, and (B) unless the owners of at least 75 per centum in value and number of shares of the stock of the corporation assume personal liability for the loan. No loan shall be made to any corporation which is a subsidiary of, or affiliated (either directly or through substantial identity of stock ownership) with, a corporation ineligible to procure a loan in the amount applied for.

Seventh. The amount of loans to any one borrower shall in no case exceed a maximum of [$100,000] *$200,000*, but loans to any one borrower shall not exceed [$25,000] *$100,000* unless approved by the [Land Bank Commissioner] *Farm Credit Administration*, nor shall any one loan be for a less sum than $100, but preference shall be given to applications for loans of $10,000 and under.

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SEC. 13.

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Nineteenth. To permit any borrower to defer payment of the principal portions of installments on his loan in order that he may pay, in whole or in part, any indebtedness which is secured by a lien junior to the lien of the bank upon the farmland mortgaged to secure his loan. *Such a deferment may be permitted for other purposes for a period not exceeding five years under regulations prescribed by the Farm Credit Administration.*

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SEC. 23. [That every Federal land bank, and every joint stock land bank, shall semiannually carry to reserve account twenty-five per centum of its net earnings until said reserve account shall show a credit balance equal to twenty per centum of the outstanding capital stock of said land bank. Whenever said reserve shall have been impaired, said balance of twenty per centum shall be fully restored before any dividends are paid. After said reserve has reached the sum of twenty per centum of the outstanding capital stock, five per centum of the net earnings shall be annually added thereto. For the period of two years from the date when any default occurs in the payment of the interest, amortization installments, or principal on any first mortgage, by both mortgagor and indorser, the amount so defaulted shall be carried to a suspense account, and at the end of the two-year period specified, unless collected, shall be debited to reserve account.

[After deducting the twenty-five per centum or the five per centum hereinbefore directed to be deducted for credit to reserve account, any Federal land bank or joint stock land bank may declare a dividend to shareholders of the whole or any part of the balance of its net earnings: *Provided*, That any dividend or dividends declared by any joint-stock land bank shall be subject to the approval of the Farm Credit Administration. The reserves of land banks shall be invested in accordance with rules and regulations to be prescribed by the Federal Farm Loan Board.

[Every Federal land bank shall semiannually carry to reserve account a sum not less than 50 per centum of its net earnings until said reserve account shall show a credit balance equal to the outstanding capital stock of said land bank. After said reserve is equal to the outstanding capital stock 10 per centum of the net earnings shall be added thereto semiannually. Whenever said reserve shall have been impaired it shall be fully restored before any dividends are paid. After deducting the 50 per centum or the 10 per centum herein directed to be deducted for credit to reserve account, any Federal land bank may declare a dividend or dividends to shareholders of the whole or any part of the balance of its net earnings, but only with the approval of the Federal Farm Loan Board. In the case of Federal land banks the requirements of this paragraph shall be in lieu of the requirements of the first three sentences of the first paragraph of this section and in lieu of the requirements of the first sentence of the second paragraph of this section.]

Every Federal land bank shall semiannually carry to reserve account a sum not less than 50 per centum of its net earnings until said reserve account shall show a credit balance equal to the outstanding capital stock of said land bank. After said reserve is equal to the outstanding capital stock 10 per centum of the net earnings shall be added thereto semiannually until said reserve account shall show a credit

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balance equal to 150 per centum of the outstanding capital stock of said land bank, and any land bank having a credit balance in said reserve account in excess of 150 per centum of its outstanding capital stock may withdraw such excess from said reserve account with the approval of the Farm Credit Administration. Whenever said reserve shall have been impaired it shall be fully restored before any dividends are paid.

After deducting the 50 per centum or the 10 per centum hereinbefore directed to be deducted for credit to reserve account, any Federal land bank may declare a dividend or dividends to shareholders of the whole or any part of the balance of its net earnings, but only with the approval of the Farm Credit Administration.

The reserves of land banks shall be invested in accordance with rules and regulations prescribed by the Farm Credit Administration.

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SEC. 24. Every national farm loan association shall, out of its net earnings, semiannually carry to reserve account a sum not less than 10 per centum of such net earnings until said reserve account shall show a credit balance equal to 25 per centum of the outstanding capital stock of said association. After said reserve has reached the sum of 25 per centum of the outstanding capital stock, 5 per centum of the net earnings shall be semiannually added thereto *until said reserve account shall show a credit balance equal to 50 per centum of the outstanding capital stock of said association, and any association having a credit balance in said reserve account in excess of 50 per centum of its outstanding capital stock may withdraw such excess from said reserve account with the approval of the Farm Credit Administration.*

ACT OF SEPTEMBER 21, 1944

AN ACT To provide for the control and eradication of certain animal and plant pests and diseases, to facilitate cooperation with the States in fire control, to provide for the more efficient protection and management of the national forests, to facilitate the carrying out of agricultural conservation and related agricultural programs, to facilitate the operation of the Farm Credit Administration and the Rural Electrification Adminstration, to aid in the orderly marketing of agricultural commodities, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

SEC. 601. (a) The Farm Credit Administration shall, prior to the first day of each fiscal year commencing after June 30, 1944, estimate for the ensuing fiscal year the cost of examinations of the [joint-stock land banks,] Federal land banks, national farm-loan associations, banks for cooperatives, Central Bank for Cooperatives, Federal intermediate credit banks, production credit corporations, and production credit associations; shall apportion the amount so determined among the [joint-stock land banks,] Federal land banks, *national farm loan associations*, banks for cooperatives, Central Bank for Cooperatives, Federal intermediate credit banks, production credit corporations, and production credit associations on such equitable basis as said Administration shall determine; and shall assess against and collect in advance the amount so apportioned from the banks, corporations, and other organizations among which the apportionment is made, *except that the amounts apportioned to national farm loan associations shall be assessed against and collected from the Federal land bank of the district which may in turn collect such amounts from the associations in a manner approved by the Farm Credit Administration.*

ACT OF AUGUST 19, 1937

AN ACT To amend the Federal Farm Loan Act, to amend the Emergency Farm Mortgage Act of 1933, to amend the Farm Credit Act of 1933, to amend the Federal Farm Mortgage Corporation Act, to amend the Agricultural Marketing Act, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Farm Credit Act of 1937".

* * * * * * *

SEC. 5.

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(b) There shall be in each farm credit district a farm credit board which shall be selected as hereinafter specified and shall be composed of seven members. Each farm credit board shall include in its title the name of the city in which the Federal land bank, Federal intermediate credit bank, production credit corporation, and regional bank for cooperatives of the district are located. Three of the seven members of said board shall be known as elected directors, of whom one shall be chosen by national farm loan associations, one shall be chosen by production

credit associations of the district, and one shall be chosen by cooperatives which are stockholders or subscribers to the guaranty fund of the regional bank for cooperatives in the district. Subject to the other provisions hereof, three of the seven members shall be known as district directors and shall be appointed by the Governor of the Farm Credit Administration by and with the advice and consent of the Federal Farm Credit Board. The seventh member of such board shall be known as director-at-large and shall be appointed by the Governor of the Farm Credit Administration by and with the advice and consent of the Federal Farm Credit Board. [No person shall be eligible hereafter for nomination or appointment to membership as an appointed member on said Board if such person has within one year next preceding the commencement of the term been a salaried officer or employee of the Farm Credit Administration, or a salaried officer or employee of any corporation operating under the supervision of the Farm Credit Administration.] *After the date of enactment of the Farm Credit Act of 1955, no person shall be eligible for election or appointment to membership on said Board if such person has within one year next preceding the commencement of the term been a salaried officer or employee of the Farm Credit Administration, or a salaried officer or employee of any corporation operating under the supervision of the Farm Credit Administration.* Each farm credit board shall elect from its members a chairman and vice chairman, and shall appoint a secretary from within or without its membership as it may see fit. The chairman, vice chairman, and secretary shall each be elected for a term of one year and until their successors are elected and take office and the board shall elect such officers each year. The chairman shall preside at all meetings and the vice chairman shall preside in the absence or disability of the chairman. The board may, in the absence of both the chairman and vice chairman, elect a member to act as chairman pro tempore.

* * * * * * *

(d)

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(2) Notwithstanding the above provision with respect to the appointment of district directors, one additional member of said board shall be elected by each of the groups aforesaid (national farm loan associations and borrowers through agencies, production credit associations, and cooperatives which are stockholders or subscribers to the guaranty fund of the regional bank for cooperatives of the district), and serve in lieu of a district director, under the following circumstances and conditions:

(A) Whenever, as determined by the Farm Credit Administration, the sum of the capital stock held by national farm loan associations, surplus and reserves of a Federal land bank shall equal or exceed 66⅔ per centum of the total of the capital stock, surplus, and reserves of such bank as of the date [three months] *six months* before the expiration of the term of office of the district director (or third district director) whose term next expires, the successor to such director shall be elected by the national farm loan associations of the district in the manner herein provided, shall be known as an elected director, and successors to that office shall be so elected and known from term to term while such conditions obtain: *Provided*, That if and when, as determined by the Farm Credit Administration, such conditions do not obtain as of the date [three months] *six months* before the expiration of the term of office of any director so elected under the provisions of this subparagraph, the successor to such director shall be appointed by the Governor of the Farm Credit Administration by and with the advice and consent of the Federal Farm Credit Board, shall be known as a district director, and successors to that office shall be so appointed and known from term to term for such terms as appointment is not precluded by the election of an additional director by one of the groups aforesaid as herein provided: *And provided further*, That such national farm loan associations shall again and from time to time elect one additional director as aforesaid if and when the required conditions named in this subparagraph shall be determined to obtain as aforesaid.

(B) Whenever, as determined by the Farm Credit Administration, the sum of the capital stock held by persons other than the production credit corporation of the district, surplus, and reserves of the production credit associations (collectively) of a farm credit district shall equal or exceed 66⅔ per centum of the total of the capital stock, surplus, and reserves of the production credit associations (collectively) of said district as of the date [three months] *six months* before the expiration of the term of office of the district director (or third district director) whose term next expires, the successor to such director shall be elected by the production credit associations of the district in the manner herein provided, shall be known as an elected director, and successors to that office shall be so elected and known from

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term to term while such conditions obtain: *Provided*, That, if and when, as determined by the Farm Credit Administration, such conditions do not obtain as of the date [three months] *six months* before the expiration of the term of office of any director so elected under the provisions of this subparagraph, the successor to such director shall be appointed by the Governor of the Farm Credit Administration by and with the advice and consent of the Federal Farm Credit Board, shall be known as a district director, and successors to that office shall be so appointed and known from term to term for such terms as appointment is not precluded by the election of an additional director by one of the groups aforesaid as herein provided: *And provided further*, That such production credit associations shall again and from time to time elect one additional director as aforesaid, if and when the required conditions named in this subparagraph shall be determined to obtain as aforesaid.

(C) Whenever, as determined by the Farm Credit Administration, the sum of the capital stock and subscriptions to the guaranty fund held by cooperatives which are stockholders or subscribers to the guaranty fund of a regional bank for cooperatives, surplus and reserves of said bank shall equal or exceed 66⅔ per centum of the total capital stock, subscriptions to the guaranty fund, surplus and reserves of said bank as of the date [three months] *six months* before the expiration of the term of office of the district director (or third district director) whose term next expires, the successor to such director shall be elected by the cooperatives which are stockholders or subscribers to the guaranty fund of said bank in the manner herein provided, shall be known as an elected director, and successors to that office shall be so elected and known from term to term while such conditions obtain: *Provided*, That if and when, as determined by the Farm Credit Administration, such conditions do not obtain as of the date [three months] *six months* before the expiration of the term of office of any director so elected under the provisions of this subparagraph, the successor to such director shall be appointed by the Governor of the Farm Credit Administration by and with the advice and consent of the Federal Farm Credit Board, shall be known as a district director, and successors to that office shall be so appointed and known from term to term for such terms as appointment is not precluded by the election of an additional director by one of the groups aforesaid as herein provided: *Provided further*, That such cooperatives which are stockholders or subscribers to the guaranty fund of said bank shall again and from time to time elect one additional director as aforesaid if and when the required conditions named in this subparagraph shall be determined to obtain as aforesaid: *Provided further*, That at no time and under no conditions shall there be in office less than one or more than two members of said board who are serving by election of any one of the groups aforesaid (national farm loan associations and borrowers through agencies, production credit associations, and cooperatives which are stockholders or subscribers to the guaranty fund of the regional bank for cooperatives of the district): *And provided further*, That if two or more of said groups shall, under the terms and provisions hereof, become qualified to elect an additional director pending the expiration of the term of office of the district director (or third district director) whose term next expires, preference shall be given, first to national farm loan associations and borrowers through agencies, next to production credit associations, and next to cooperatives which are stockholders or subscribers to the guaranty fund of the regional bank for cooperatives, to elect an additional director as herein provided as the terms of office of district directors, including the third district director if he be still in office, expire.

(3) In any district which includes more than one State no person shall be eligible to be elected by any group if he is a resident of the same State as the other member elected by such group and then serving. If two directors are to be elected at the same election in any such district by any group, the election of the director to be elected by such group under section 5 (b) shall be first determined, and the person receiving the most votes for election under section 5 (d) (2) who is not a resident of the same State as the director elected under section 5 (b) shall be declared elected.

(4) *As directed by the Farm Credit Administration, the election of a director under section 5 (d) (2) by any group may be begun any time within six months before the expiration of the term of office to which the director is to succeed, subject to the required determination being made as of the date six months before the expiration of such term of office that a director so elected by such group is to serve in lieu of a district director (or third district director).*

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Calendar No. 1217

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1202

STATE OF ILLINOIS

JULY 28, 1955.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 125]

The Committee on the Judiciary, to which was referred the bill (S. 125) for the relief of the State of Illinois, having considered the same, reports favorably thereon an amendment in the nature of a substitute and recommends that the bill, as amended, do pass.

AMENDMENT

Strike out all after the enacting clause and insert in lieu thereof the following:

That the State of Illinois shall have the exclusive right in interstate commerce to use, manufacture, and to control the right to manufacture the emblematic design heretofore published by the secretary of state of the State of Illinois consisting of a profile of the head of Abraham Lincoln superimposed upon an outline map of the State of Illinois which is surmounted by the name "Illinois" and overlaid by the caption "Land of Lincoln".

SEC. 2. Nothing in this Act shall be construed to confer any right to recover damages for violation of this exclusive right, by any act performed before the date of enactment of this Act, or to prevent the use of any matter utilized before that date.

PURPOSE

The purpose of the proposed legislation, as amended, is to confer upon the State of Illinois the exclusive right to use, manufacture, and to control the right to manufacture an emblematic design heretofore published by the secretary of state of the State of Illinois.

STATEMENT

The bill as originally introduced would authorize the secretary of state of the State of Illinois, within a stated period, to file application with the Register of Copyrights, who is authorized and directed to register a heretofore published design consisting of a profile drawing

of the head of Abraham Lincoln superimposed upon an outline map of the State of Illinois, which is surmounted by the name "Illinois" and overlaid by the caption "Land of Lincoln." The Register of Copyrights is further directed to issue a certificate for such registration.

The Library of Congress, in reporting on the proposed legislation as introduced, expressed several reservations concerning the language of the proposed legislation.

That report pointed out that the long-established purpose of the copyright law has been to promote the progress of the arts and sciences by affording authors, for a limited period, the exclusive rights to the use of their writings. The granting of this right has been conditioned upon compliance with the statutory requirements. It is well settled that failure to comply with those requirements, such as the publication of a work without the required statutory notice, places it in the public domain and completely removes it from the protection of the copyright law (citing *Universal Films* v. *Copperman*, 212 F. 301 (D. C. N. Y. 1914); affirmed 218 F. 577 (2d Cir. 1914), cert. denied, 235 U. S. 704). The report further stated that enactment of the bill in the form as introduced would be discriminatory to the many claimants who publish their works without meeting the statutory requirements, and would be in derogation of established legal principles.

The Library of Congress further observed that to authorize the registration of a claim to copyright in the emblem in question would not necessarily afford copyright protection for the emblem. Registration does not of itself create a copyright. Copyright is obtained by the act of publication with the statutory notice. The certificate of registration is only prima facie evidence of the validity of the copyright and if challenged in litigation, the State of Illinois would be required to establish its copyright. The Library of Congress therefore concluded that registration of the desired emblem under the copyright law not only seems inappropriate but would not appear to provide in the best manner the protection the State of Illinois desires.

The committee is constrained to agree with the views expressed in the report submitted by the Library of Congress and, accordingly, has amended the bill so as to confer upon the State of Illinois the exclusive right in interstate commerce to use, manufacture, and to control the right to manufacture the emblematic design heretofore published by the secretary of state of the State of Illinois.

The bill as amended, therefore, meets the objections raised in the report submitted by the Library of Congress, and the committee has been advised that the Copyright Office interposes no objection to the proposed change in language. Accordingly, the committee recommends favorable consideration of this legislation, as amended.

The Department of Justice, in reporting on the instant bill, states that whether the bill should be enacted involves a question of policy concerning which that Department prefers to make no recommendation.

Attached hereto and made a part hereof are the reports of the Department of Justice and the Library of Congress submitted in connection with the proposed legislation.

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THE LIBRARY OF CONGRESS,
OFFICE OF THE CHIEF ASSISTANT LIBRARIAN,
Washington 25, D. C., February 15, 1955.

Hon. HARLEY M. KILGORE,
Chairman, Committee on the Judiciary,
424 Senate Office Building, Washington, D. C.

DEAR SENATOR KILGORE: This is to acknowledge your letter of January 27, 1955, transmitting a copy of S. 125 and requesting my report thereon.

The bill would authorize the secretary of state of the State of Illinois, within a stated period, to file application with the Register of Copyrights who is authorized and directed to register a heretofore published design consisting of a profile drawing of the head of Abraham Lincoln superimposed upon an outline map of the State of Illinois, which is surmounted by the name "Illinois" and overlaid by the caption "Land of Lincoln." The Register of Copyrights is further directed to issue a certificate for such registration.

The bill also contains a savings clause protecting the rights of any user of this emblem prior to the date of enactment of the act.

The files of the Copyright Office disclose that on July 20, 1954, the attorney general of the State of Illinois wrote to that Office requesting information concerning the copyrightability of an emblem seemingly identical to that involved in S. 125. It was stated by the attorney general that "This emblem is attached to certain stationery used by the secretary of state." The reply of the Copyright Office was to the effect that since copyright is obtained by the act of publication with the required statutory notice, there would seem to be no possibility of obtaining copyright in the emblem in question since it had been publicly distributed on the stationery of the secretary of state without the required statutory notice. In addition it was indicated that the only portion of the emblem subject to copyright protection was the profile drawing of the head of Abraham Lincoln. Copies of this correspondence are attached. The files of the Copyright Office do not reveal any subsequent correspondence relating to this matter.

I should like to call to your attention the following considerations which argue against a favorable reporting of the bill:

(1) The long-established purpose of the copyright law has been to promote the progress of the arts and sciences by affording authors, for a limited period, the exclusive rights to the use of their writings. The granting of this right has been conditioned upon compliance with the statutory requirements. It is well settled that failure to comply with those requirements, such as the publication of a work without the required statutory notice, places it in the public domain and completely removes it from the protection of the copyright law. *Universal Films* v. *Copperman*, 212 F. 301 (D. C. N. Y. 1914); affd. 218 F. 577 (2d Cir. 1914), cert. denied, 235 U. S. 704 (1914); *Fleischer* v. *Freundlich*, 74 F. (2d) 276 (2d Cir. 1934); *Advertisers Exchange* v. *Anderson*, 144 F. (2d) 907 (8th Cir. 1944); *Natl. Comics Pubs.* v. *Fawcett Pubs.* 191 F (2d) 594 (2d Cir. 1951). Enactment of this bill would be discriminatory to the many claimants who publish their works without meeting the statutory requirements, and would be in derogation of established legal principles.

(2) As originally pointed out by the Copyright Office to the attorney general of the State of Illinois, the outline map of the State of Illinois would not, on the basis of reported decisions, seem to be covered by copyright. *Andrews* v. *Guenther Pub. Co.*, 60 F (2d) 555 (D. C. N. Y. 1932); *Christianson* v. *West Pub. Co.*, 149 F (2d) 202 (9th Cir. 1945). The words "Illinois—Land of Lincoln" are probably not subject to copyright protection as the writings of an author, since they are merely generic and descriptive words. The only portion of the emblem which would seem to have been subject to copyright protection would have been the profile drawing of the head of Abraham Lincoln, assuming that the drawing were an original work. It is doubtful if protection is sought solely for the profile drawing.

(3) One would also have to take notice of the fact that the words "Illinois—Land of Lincoln" appear on the automobile license plates issued by that State. Even though it could be validly contended that such words were subject to copyright protection, publication without the statutory copyright notice on the plates placed such words in the public domain.

(4) To authorize the registration of a claim to copyright in the emblem in question would not necessarily afford copyright protection for the emblem. Registration does not of itself create a copyright. As stated above, that is obtained by the act of publication with the statutory notice which apparently was not accomplished in this instance. The certificate of registration is only prima facie evidence of the validity of the copyright and if challenged in litigation,

the State of Illinois would be required to establish its copyright. On the basis of presently available information, this would not seem possible.

On the basis of the foregoing, registration of this emblem under the copyright law not only seems inappropriate but would not appear to provide in the best manner the protection desired. Your committee may, in consequence, wish to consider the desirability of affording the desired protection by means of a special statute similar to those which have been enacted to protect the emblems of "Smokey Bear" (18 U. S. C. 711), the American Legion (36 U. S. C. 44), the American National Red Cross (18 U. S. C. 706, 917), the Boy Scouts of America (36 U. S. C. 27), and other organizations.

Sincerely yours,

VERNER W. CLAPP,
Chief Assistant Librarian.

ATTORNEY GENERAL, STATE OF ILLINOIS,
Springfield, July 20, 1954.

Re Trademarks: Copyright emblem used by Secretary of State.

REGISTER OF COPYRIGHTS,
Library of Congress, Washington, D. C.

DEAR SIR: It has been proposed to introduce a bill in the Legislature of the State of Illinois, authorizing the secretary of state, on behalf of the people of the State of Illinois, to copyright an emblem (copy of which is attached), which emblem or symbol was designed and originated by the office of the secretary of state.

As you will note, this emblem carries the words "Illinois—Land of Lincoln," and an outline map of the State of Illinois with Lincoln's profile in the center. This emblem is attached to certain stationery used by the secretary of state.

Before introduction of this bill in the next session of the legislature, I have been requested to procure a determination from the proper authorities at Washington, D. C., to determine whether this emblem is subject to copyright by the State of Illinois.

Accordingly, please advise me as to whether or not this emblem or symbol is subject to copyright by the secretary of state of the State of Illinois, on behalf of the people of said State.

Very truly yours,

LATHAM CASTLE,
Attorney General.

AUGUST 18, 1954.

The Honorable LATHAM CASTLE,
Attorney General, Springfield, Ill.

DEAR MR. CASTLE: May I apologize for not acknowledging before now your letter of July 20, 1954, inquiring about the possibility of copyrighting an emblem which carries the words "Illinois—Land of Lincoln" and an outline map of the State of Illinois with Lincoln's profile in the center. Although you indicated that a copy of the emblem would be enclosed, I am told that we did not receive a copy.

Copyright in any work is secured by the act of affixing to each copy of it the statutory copyright notice. For works such as you describe the notice must consist of at least the symbol © accompanied by the name of the copyright owner. If copies are published without the statutory copyright notice, copyright is forfeited and all subsequent efforts to secure it are defeated. Not even adding the notice to copies subsequently distributed can be of any help. If the emblem is in use on the public correspondence of the secretary of state and the statutory copyright notice is not affixed to it then there would seem to be no possibility of securing copyright in the emblem at all. You see, publication in the copyright sense is considered to be the placing on sale, sale or public distribution of copies of a work.

If there were no copyright notice problem involved, the emblem, from your description of it, would seem to be copyrightable. Although no one could secure by copyright the exclusive right to use the legend "Illinois—Land of Lincoln" and the courts have indicated that an outline map of the United States is not copyrightable and by inference the outline map of any individual State would fall in the same category, a particular version of Lincoln's profile would be copyrightable. We would, therefore, consider registering a claim to copyright in the emblem if, from the first time copies had been publicly distributed, they had affixed to them the statutory copyright notice.

I suspect that one aspect of the label in which you are most interested is the legend "Illinois—Land of Lincoln." The notion that short phrases like this

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cannot be copyrighted is more fully explained in the enclosed Circular 19. Even if it could have been considered copyrightable, however, the fact that it has been published without notice on your license plates would make it impossible to register a claim in it alone. If it develops that the emblem you describe has not yet been published and we can register a claim to copyright in it the copyright would not prevent anyone from using the legend alone. I am enclosing an application form K which describes on page 2a the procedure for securing copyright in a print as well as the statutory copyright notice. In connection with the notice I might suggest that it would seem difficult to use any name other than the State of Illinois on the emblem without somehow defacing it. We have registered claims to copyright in works published with copyright notices containing the names of individual States as copyright owners. Though registration of such claims is relatively common there could be some doubt that a State is a person capable of owning copyright within the meaning of section 1 of title 17, United States Code.

Sincerely yours,

VINCENT A. DOYLE,
Assistant Chief, Examining Division.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D. C., May 13, 1955.

Hon. HARLEY M. KILGORE,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 125) for the relief of the State of Illinois.

The bill would direct the Register of Copyrights, upon application within a limited time by the Secretary of State of Illinois and notwithstanding any other provisions of law, to register, in the name of the State of Illinois, a certain emblematic design, and to issue to the secretary, pursuant to section 209 of title 17 United States Code, a certificate of registration. The bill would provide that such registration shall have the same effect as if made pursuant to the provisions of title 17, United States Code (copyrights). It would provide further that nothing in the measure shall be construed to confer any right to recover damages for infringement by any act performed before the date of the bill's enactment, or to prevent the use of any matter printed before that date.

The bill would thus confer upon the State of Illinois the protection of the copyright laws with respect to the design specified without compliance with the normal registration procedures.

Whether the bill should be enacted involves a question of policy concerning which this Department prefers to make no recommendation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

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Calendar No. 1219

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1204

AMENDING THE FLAMMABLE FABRICS ACT TO EXEMPT FROM ITS APPLICATION SCARVES WHICH DO NOT PRESENT AN UNUSUAL HAZARD

JULY 28, 1955.—Ordered to be printed

Mr. MAGNUSON, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 1455]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1455) to amend the Flammable Fabrics Act to exempt from its application scarves which do not present an unusual hazard, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The bill would amend the Flammable Fabrics Act to exempt from its application scarves made of plain-surface fabrics.

This bill is consistent with the original intent of Congress in enacting the Flammable Fabrics Act to exempt fabrics and wearing apparel which are not highly flammable and which present no unusual fire hazard or danger to the public.

Under the flammability standards provided in the present law, any plain-surface fabric intended for use in wearing apparel which exhibits a burning rate of less than 3½ seconds when tested in a prescribed manner is classified as "rapid and intense burning," and is banned in commerce. Plain-surface fabrics, which exhibit a burning rate of 3½ seconds or more are classified as having "normal" flammability, and are considered as relatively safe for use in wearing apparel.

Many silk scarves made of plain-surface fabrics fail by a narrow margin to meet this minimum requirement of a 3½ seconds burning rate established for relatively safe fabrics.

So far as can be determined, such scarves have never presented any unusual fire hazard or danger to the public. If ignited, the flame can easily be extinguished by merely patting the scarf with the hand, for

the flame intensity is very low. We are not aware of any casualties resulting from the ignition of such scarves. On the other hand, scarves made of brushed or raised surface fabrics, which burn with an intense flame, and are highly dangerous to the wearer, would continue to be subject to the provisions of this act.

There is strong justification for considering scarves made of plain-surface fabrics as clothing accessories similar to certain hats, gloves, and footwear, which are already excluded from the provisions of this law. These accessories, if ignited, can easily be divested, and do not normally constitute an unusual fire hazard. Similarly, scarves are not ordinarily attached to or affixed to the wearer and can, therefore, be divested easily and rapidly, if necessary. We are convinced that no danger to the public would result from excluding also scarves made of plain-surface fabrics from the provisions of the Flammable Fabrics Act.

So far as is known, the only scarves that would be affected by the proposed amendment would be the plain surface, lightweight silk scarves, usually those of 4-momme weight or lighter weight, which are imported principally from Japan. Spokesmen for American importers of, and dealers in, these silk scarves have stated that since July 1, 1954, when the Flammable Fabrics Act became effective, they have suffered serious financial damage, without any compensatory benefit to the public. It is estimated that $1,250,000 worth of such silk scarves have been accumulated in stock and cannot be sold under present law. For the smaller firms, this freezing of capital in inventory, and loss of sales, have seriously imperiled the solvency and survival of businesses which, in some cases, were established 50 years ago. Furthermore, thousands of dozens of silk scarves are now being tied up by customs because of the unpredictability of the results of burning tests prescribed by law. Many dealers, acting in good faith, have imported scarves which were deemed to be in conformity with the law, only to be informed that subsequent testing indicated a contrary result. (It is not unusual for scarves of the same weight, construction, and dye content to pass one test and fail another identical test.) In any event, the loss to the scarf industry occasioned by the storage of doubtful categories of scarves, and the delay at customs have proved to be extremely damaging, even though subsequent testing proved that the imports were found to comply with the flammability tests prescribed in the law for safe fabrics.

Reports on S. 1455 were received from the Department of State, the Federal Trade Commission, the Comptroller General, and the Department of Justice. They have no objections to the bill. These four reports are included in the appendix to this report.

History of Flammable Fabrics Act

The purpose of the Flammable Fabrics Act (Public Law 88, 83d Cong.) is to protect the public from the dangers surrounding the use in wearing apparel of highly flammable textiles of the type which have caused either bodily injury or death to numerous individuals. The act is limited in scope to wearing apparel and fabrics which are intended or sold for use in wearing apparel. It outlaws, for example, the introduction, movement, or sale in interstate commerce of highly flammable children's cowboy playsuits, and the so-called torch sweaters or jackets which have caused serious injuries and death to a number

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of innocent and unsuspecting individuals prior to enactment of the Flammable Fabrics Act.

Bills to prohibit the transportation in interstate commerce of highly flammable fabrics and wearing apparel were introduced in the House beginning with the 79th Congress, 1st session (1945). In the 82d Congress, the Senate passed unanimously S. 2918. This bill was reported by the House Committee on Interstate and Foreign Commerce on July 4, 1952. The House took no action on that bill prior to the adjournment of the Congress on July 7, 1952.

In the 83d Congress, five similar flammable-fabric bills were introduced in the House, namely, H. R. 389, by Mr. Canfield, of New Jersey; H. R. 2768, by Mr. Wolverton, of New Jersey; H. R. 3851, by Mr. Canfield, of New Jersey; H. R. 4159, by Mr. Johnson of California; and H. R. 4500, by Mr. Williams of Mississippi. The principal object of all these bills was to prohibit the introduction or movement in interstate commerce of articles of wearing apparel, and fabrics for use in wearing apparel, which were so highly flammable as to be dangerous when worn by individuals. After extensive hearings and executive consideration of these bills, the then chairman of the committee, Mr. Wolverton, introduced a "clean" bill, H. R. 5069, at the direction of the committee. This bill was passed by the House unanimously on June 3, 1953, by the Senate on June 18, 1953, and was approved by the President on June 30, 1953 (Public Law 88, 83d Cong.). This act took effect on July 1, 1954.

1954 AMENDMENT TO FLAMMABLE FABRICS ACT (PUBLIC LAW 629, 83D CONG.)

Shortly before the effective date of the Flammable Fabrics Act (July 1, 1954), representations were made to your committee to the effect that certain sheer fabrics, such as organdies, tulles, and georgettes, which have been used with safety by the American consumer for many generations, failed by a very narrow margin to pass the 4-second burning time prescribed in the law for nonhighly flammable textiles, and they were therefore banned in commerce. Your committee was advised that the ban on such fabrics would have a very significant effect on the manufacturers and processors of these sheer fabrics, and would remove from the market very fine textiles used in the manufacture of women's and children's dresses which would be difficult to replace.

In order to rectify this situation, your committee reported favorably S. 3379 (83d Cong.), which subsequently became Public Law 629, 83d Congress, approved on August 23, 1954, following adoption of House amendments which eliminated the provision to exempt scarves made of plain surface fabrics. This law reduced the normal burning time for plain-surface fabrics, that is, fabrics free from nap, pile, tufting, flock, or other type of raised fiber surface, from 4 seconds to 3½ seconds. For the purposes of administering the Flammable Fabrics Act, therefore, the 3½-second burning time for plain-surface fabrics is adequate to classify such textiles as fabrics having normal flammability.

The lowering of the burning time to 3½ seconds for plain-surface fabrics, nevertheless, was not sufficient to accommodate certain lightweight silk scarves, which have equally been shown to be of no unusual hazard to wearers, and consequently of no danger to the public.

The reported bill, S. 1455, would provide this urgently needed relief to importers of, and dealers in, silk scarves by reinserting in the act the same exemption amendment originally contained in S. 3379 (83d Cong.) as reported by your committee and passed initially by the Senate.

STANDARDS OF FLAMMABILITY

The major problem in formulating legislation to control the use of dangerously flammable textiles is to discriminate between the conventional fabrics that present moderate and generally recognized hazards and the special types of fabrics which present unusual hazards and are highly dangerous.

The rate of burning of a garment of other textile product depends upon the kind of fiber, the finishing materials present, the structure of the yarn and fabric, and such circumstances as the relative humidity. In general, wool textiles ignite and burn with difficulty, while cotton and rayon ignite and burn more readily. The major hazards arise from certain cotton or rayon fabrics having fuzzy or furlike surfaces which clash and burn with exceeding rapidity. Most synthetic textiles melt when heated and the molten material is capable of producing serious burns on coming in contact with the skin.

Section 4 of the Flammable Fabrics Act prescribes the standards of flammability. Commercial Standard 191–53, promulgated by the Secretary of Commerce effective January 30, 1953, prescribes the standards of flammability for clothing textiles, and Commercial Standard 192–53, promulgated by the Secretary of Commerce effective May 22, 1953, prescribes the standard of flammability for vinyl plastic film.

COMMERCIAL STANDARD 191–53

The flammability test provided in the Commercial Standard 191–53 makes use of strips of fabric 2 by 6 inches in dimensions. These strips are washed, cleaned, and dried to a bone-dry condition in a prescribed manner. The test consists of measuring the burning time in seconds when the test strip is mounted in a specially designed apparatus, called a flammability tester, and a flame is applied in a prescribed manner.

Three classes of flammability are prescribed in Commercial Standard 191–53, as follows: Class 1, normal flammability; class 2, intermediate flammability; and class 3, rapid and intense burning.

Textiles having "normal" flammability

Textiles without nap, pile, tufting, flock, or other type of raised fiber surface are classified as class 1, normal flammability, when the time of flame spread is 4 seconds or more.[1] Napped, pile, tufted, flocked or other textiles having a raised fiber surface are classified as class 1, normal flammability, when the time of flame spread is more than 7 seconds, or when they burn with a rapid flash (from 0 to 7 seconds), provided the intensity of the flame is so low as not to ignite or fuse the base fabric.

[1] For the purpose of administering the Flammable Fabrics Act, Public Law 629, 83d Cong., reduced the normal burning time for plain-surfaced fabrics from 4 to 3½ seconds. Such fabrics are, therefore, considered as having normal flammability.

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Textiles having "intermediate" flammability

Textiles which have a nap, pile, tufting, flock or other type of raised-fiber surface are classified as class 2, intermediate flammability when the time of flame spread is from 4 to 7 seconds, and the base fabric ignites or fuses.

Textiles which are "rapid and intense burning"

Textiles free from nap, pile, tufting, flock, or other type of raised-fiber surface are classified as class 3, rapid and intense burning, when the time of flame spread is less than 4 seconds.[2] Napped, pile, tufted, flocked or other textiles having a raised-fiber surface are classified as class 3, rapid and intense burning, when the time of flame spread is less than 4 seconds and when the intensity of flame is such as to ignite or fuse the base fabric.

The Flammable Fabrics Act prohibits the introduction or movement in interstate commerce of those fabrics which are classified as class 3, rapid and intense burning.

COMMERCIAL STANDARD 192–53

Commercial Standard 192–53 is the industry-approved standard with respect to vinyl plastic film. Such film is used in the manufacture of various articles of wearing apparel such as raincoats, capes, hoods, pants, and aprons. The flammability test is prescribed in paragraph 3.11 of this standard.

Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as introduced, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 2 (D) OF THE FLAMMABLE FABRICS ACT

DEFINITIONS

SEC. 2. As used in this Act—

* * * * * * *

(d) The term "article of wearing apparel" means any costume or article of clothing worn or intended to be worn by individuals except hats, gloves, *scarves made of plain surface fabrics* and footwear: *Provided, however*, That such hats do not constitute or form part of a covering for the neck, face, or shoulders when worn by individuals: *Provided further*, That such gloves are not more than fourteen inches in length and are not affixed to or do not form an integral part of another garment: *And provided further*, That such footwear does not consist of hosiery in whole or in part and is not affixed to or does not form an integral part of another garment.

APPENDIX

FEDERAL TRADE COMMISSION,
Washington 25, April 20, 1955.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your letter of March 16, 1955, inviting comment by this agency upon S. 1455, 84th Congress, 1st session, a bill

[2] For the purpose of administering the Flammable Fabrics Act, Public Law 629, 83d Cong., provides that, in the case of plain-surfaced fabrics, the classification of "rapid and intense burning" shall apply to those fabrics where the time of flame spread is less than 3½ seconds.

to amend the Flammable Fabrics Act to exempt from its application scarves which do not present an unusual hazard.

The bill would except "scarves made of plain surface-fabrics" from the provisions of the Flammable Fabrics Act. The term "plain-surface textile fabrics" has been defined in rule 1 (a) (7) of the rules and regulations issued by the Commission pursuant to that act as meaning "any textile fabric which does not have an intentionally raised fiber or yarn surface such as a pile, nap, or tuft, but shall include those fabrics having fancy woven, knitted or flock printed surfaces."

The express limitation of the exception to "scarves made of plain-surface fabrics" will leave subject to the Act scarves made of so-called "torch" sweater materials and similar highly napped fabrics which have been proved dangerous. Generally speaking, scarves made of plain surface fabrics do not appear to present any unusual hazard to the wearer and the Commission is not aware of any casualties resulting from the ignition of such scarves.

In the report of the House committee upon the bill which became the Flammable Fabrics Act, the purpose of the legislation was stated: "* * * to protect the public from the danger surrounding the use in wearing apparel of highly flammable textiles of the types which have caused either bodily injury or death to numerous individuals." The report further emphasized the problem of fixing upon a standard of flammability that would "discriminate between the conventional fabrics that present moderate and generally recognized hazards and the special types of fabrics which present unusual hazards and are highly dangerous." It is, therefore, believed that the proposed amendment is in accord with the intent of the Congress as expressed in the report.

The Commission has no information which would warrant objection to the proposed amendment.

By direction of the Commission.

Sincerely yours,

EDWARD F. HOWREY, *Chairman.*

N. B.: Pursuant to regulations, this report was submitted to the Bureau of the Budget on April 20, 1955, and on that date the Commission was advised that there would be no objection to the submission of the report to the committee.

ROBERT M. PARRISH, *Secretary.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington 25, March 29, 1955.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter, dated March 16, 1955, enclosing a copy of S. 1455, 84th Congress, designed to exempt scarves which do not present an unusual hazard from the application of the Flammable Fabrics Act. You request any comments we may care to offer concerning this proposed legislation.

The General Accounting Office has no information on this subject other than that contained in the legislative history on Public Law 629, 83d Congress, which discloses that this provision was contained in the original bill (S. 3379) but subsequently deleted. Accordingly, we have no comments to make concerning the enactment of S. 1455.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

DEPARTMENT OF STATE,
Washington, D. C., May 6, 1955.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate.

DEAR SENATOR MAGNUSON: I refer to your letter of March 16, 1955, transmitting a copy of S. 1455, to which an interim acknowledgment was sent on March 18, 1955. S. 1455 would include "scarves made of plain surface fabrics" among those articles exempted from the application of the Flammable Fabrics Act.

This Department understands that the exemption is being proposed in view of the opinion of industry experts that, since such scarves are ordinarily worn

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as accessories, they do not cause an unusual hazard to their wearers. The Department is, therefore, gratified at the introduction of the bill and is pleased to recommend its enactment, since it believes that legislation designed for safety or the protection of health should not be used as a barrier to trade in other commodities.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

THRUSTON B. MORTON,
Assistant Secretary
(For the Secretary of State).

DEPARTMENT OF JUSTICE,
Washington, D. C., May 27, 1955.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 1455) to amend the Flammable Fabrics Act to exempt from its application scarves which do not present an unusual hazard.

The Flammable Fabrics Act (15 U. S. C. 1191 et seq.) generally prohibits the sale or transportation in interstate commerce of articles of wearing apparel which are so highly flammable as to be dangerous when worn. The act covers all articles of clothing except hats, gloves, and footwear. The bill would amend the act so as to also exempt "scarves made of plain surface fabrics" from the effect of the statute.

Whether the bill should be enacted involves a question of policy concerning which this Department prefers to make no recommendation. If the measure should receive favorable consideration, however, the committee might wish to amend it to include a definition of the term "plain surface fabrics."

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

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Calendar No. 1229

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1214

ELIMINATING SEPARATE DIVISIONS AND REDUCING NUMBER OF PLACES OF HOLDING REGULAR TERMS OF COURT IN NEBRASKA

JULY 28, 1955.—Ordered to be printed

Mr. KILGORE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1512]

The Committee on the Judiciary, to which was referred the bill (S. 1512) to amend section 107 of title 28 of the United States Code so as to eliminate separate divisions and reduce the number of places of holding regular terms of the United States District Court for the District of Nebraska, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

On page 1, line 10, strike "July 1, 1955." and insert in lieu thereof "January 1, 1956.".

PURPOSE

The purpose of the proposed legislation, as amended, is to eliminate separate divisions and reduce the number of places of holding regular terms of the United States District Court for the District of Nebraska. It would abolish the presently existing 8 divisions and provide that Nebraska shall constitute 1 judicial district, with court to be held at Lincoln, North Platte, and Omaha. Section 2 of the bill, as amended, provides that the amendment made by the first section thereof shall take effect on January 1, 1956.

STATEMENT

At the present time, Nebraska constitutes 1 judicial district, comprising 8 divisions, as follows: The Chadron division, with court held at Chadron; the Grand Island division, with court held at Grand Island; the Hastings division, with court held at Hastings; the Lincoln division, with court held at Lincoln; the McCook division, with court held at McCook; the Norfolk division, with court held at Norfolk; the North Platte division, with court held at North Platte, and the Omaha division, with court held at Omaha. This proposed legislation would abolish the eight divisions hereinbefore set forth and assign the places for holding court at Lincoln, North Platte, and Omaha. This would result in a reduction of five places for holding court in the State.

Hearings were held before a subcommittee of the Committee on the Judiciary on S. 1512, along with other bills relating to the Federal judiciary, and the testimony on this proposal has been given careful consideration by the subcommittee. Opposition was filed to this measure by the Grand Island Chamber of Commerce; the Sixteenth Judicial Bar Association of Nebraska; the Dawes County Bar Association; the Hastings Chamber of Commerce, and the Hall County Bar Association. This opposition generally was directed to the particular division which would affect the organizations resident within that division. It has been the general policy of the Judicial Conference of the United States, in the interest of economy and dispatch of business, to reduce or consolidate districts and divisions wherever possible. The hearings indicated that the Administrative Office of the United States Courts, in forwarding the approval of this proposal, in effect endorsed the action of the Judicial Council of the Eighth Circuit. The Judicial Council of the Eighth Circuit, on May 7, 1955, unanimously approved the provisions contained in this bill. The hearing on this matter was at length and an overall review thereof indicated that this proposal contained merit. It should be noted at this point that if the judge finds that circumstances require, he may nevertheless still hold court at various places throughout the State, without the necessity of divisions.

The hearings further indicated that the maintenance of a rigid divisional structure is cumbersome and expensive. In civil matters, one of the principal difficulties is that of multiplicity of records. It was further pointed out that under the present criminal practice in Federal courts, divisional structure is a real barrier for the proper expedition of courtwork. A very large percentage of all criminal prosecutions in Federal courts now come about through the traditional indictment after instruction of the defendant in his rights and consent to prosecution by information. Where a district has been subdivided into rigid divisions, the practical handling of criminal matters becomes extremely difficult and time-consuming, due to the necessity for transfer of cases between the divisions.

In the light of the evidence presented, it appears that there are too many divisions in the State of Nebraska and it is believed that no hardship would result by reason of the abolishment of the division system within the District of Nebraska. The committee, therefore, recommends that the bill, S. 1512, as amended, be considered favorably.

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Attached hereto and made a part hereof is a letter from the Administrative Office of the United States Courts dated May 12, 1955, to Hon. Harley M. Kilgore, chairman of the Committee on the Judiciary, United States Senate.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS,
Washington, D. C., May 12, 1955.

Hon. HARLEY M. KILGORE,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

DEAR SENATOR KILGORE: Supplementing my letter of April 11, 1955, concerning a bill about which you had inquired to do away with statutory divisions in the district of Nebraska and eliminate all places of holding terms of the district court for that district except Lincoln, North Platte, and Omaha (S. 1512), I am now informed of the position of the judicial council of the eighth circuit, and also of the two district judges of the district of Nebraska.

Writing me on May 10, 1955, Judge Gardner, presiding judge of the Court of Appeals for the Eighth Circuit and as such chairman of the judicial council, has informed me that the matter was laid by him before the judicial council on May 7, 1955, and that after discussion the council unanimously approved the pending bill.

The measure is also approved by both judges of the District Court for the District of Nebraska. Chief Judge J. A. Donohoe in a letter to Judge Gardner wrote in part as follows:

* * * * * * *

"You may be assured that this proposed change meets with our entire approval. As a matter of fact, this is an attempt to do away with the tremendous cost of holding court in these outlying divisions necessitated under the so-called Norris bill, which in effect required the presence of the judge in each division, ordinarily with his supporting personnel, to open the term, call the dockets, whether there was any business to transact or not and making it necessary and mandatory on the judges to be in the division in order to enter the order, if any, while present in the district in the division.

* * * * * * *

"As a matter of fact, I am fully convinced that if this law is passed, it will step up the time required to dispose of the business out of State and will save the Government in the neighborhood of $25,000 a year in the reserved space in the Federal buildings. In addition to that, it will save the expense of traveling incurred by the judge and supporting personnel, and subsistence."

Judge John W. Delehant in a letter to Judge Gardner expressed his position in part as follows:

* * * * * * *

"On my own part, I approve altogether the bills which are now pending. They reflect a realistic understanding of the Nebraska district as it now stands and propose a correction which is long overdue.

"The present divisional structure in Nebraska is some 50 years old and is the result of a combination of political logrolling in favor of communities on the one hand, and of the railroad pattern of Nebraska at a time when travel to the Federal courts was accomplished largely by rail. A glance at a map of Nebraska with the outlines of our divisions superimposed upon it will at once disclose the latter influence.

"The relationship of the railroads to the places of holding court is completely out of date. It almost never happens that an attorney, witness, or party to litigation, or any of the court personnel will travel to one of our sessions by rail. Such travel is accomplished almost altogether either by private passenger car or motorbus.

"There is no longer any real justification for holding Federal court sessions at eight places in Nebraska. An argument might be made for the retention of Grand Island as a court site. And I should not personally dissent from that. But the retention of the other four places cannot be justified on any reasonable ground.

"Besides the excessive number of court seats, the clumsiness of the divisional structure should be eliminated and, as in Kansas, the district should be a single entity with prescribed places for the holding of court. Then by standing rule,

we could manage the calendaring of cases for trial or other disposition on a well-considered basis. Again, we would probably follow the rule applicable in Kansas on this subject.

With kind regards, I am,

Sincerely yours,

HENRY P. CHANDLER.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 28, UNITED STATES CODE—JUDICIARY AND JUDICIAL PROCEDURE

§ 107. NEBRASKA.

Nebraska constitutes one judicial district [comprising eight divisions].

[(1) The Chadron Division comprises the counties of Box Butte, Cherry, Dawes, Sheridan, and Sioux.]

[Court for the Chadron Division shall be held at Chadron.]

[(2) The Grand Island Division comprises the counties of Blaine, Buffalo, Custer, Garfield, Grant, Greeley, Hall, Hooker, Howard, Loup, Merrick, Sherman, Thomas, and Valley.]

[Court for the Grand Island Division shall be held at Grand Island.]

[(3) The Hastings Division comprises the counties of Adams, Clay, Franklin, Harlan, Kearney, Nuckolls, Phelps, and Webster.]

[Court for the Hastings Division shall be held at Hastings.]

[(4) The Lincoln Division comprises the counties of Butler, Cass, Fillmore, Gage, Hamilton, Jefferson, Johnson, Lancaster, Nemaha, Otoe, Pawnee, Polk, Richardson, Saline, Saunders, Seward, Thayer, and York.]

[Court for the Lincoln Division shall be held at Lincoln.]

[(5) The McCook Division comprises the counties of Chase, Dundy, Frontier, Furnas, Gosper, Hayes, Hitchcock, Perkins, and Redwillow.]

[Court for the McCook Division shall be held at McCook.]

[(6) The Norfolk Division comprises the counties of Antelope, Boyd, Brown, Holt, Keya Paha, Knox, Madison, Pierce, Rock, Stanton, and Wayne.]

[Court for the Norfolk Division shall be held at Norfolk.]

[(7) The North Platte Division comprises the counties of Arthur, Banner, Cheyenne, Dawson, Deuel, Garden, Keith, Kimball, Lincoln, Logan, McPherson, Morrill, and Scotts Bluff.]

[Court for the North Platte Division shall be held at North Platte.]

[(8) The Omaha Division comprises the counties of Boone, Burt, Cedar, Colfax, Cuming, Dakota, Dixon, Dodge, Douglas, Nance, Platte, Sarpy, Thurston, Washington, and Wheeler.]

[Court for the Omaha Division shall be held at Omaha.]

Court shall be held at Lincoln, North Platte, and Omaha.

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Calendar No. 1230

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1215

CITY OF ELKINS, W. VA.

JULY 28, 1955.—Ordered to be printed

Mr. KILGORE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 2182]

The Committee on the Judiciary, to which was referred the bill (S. 2182) for the relief of the city of Elkins, W. Va., having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

Page 2, line 1, strike out all of section 2.

PURPOSE OF AMENDMENT

Favorable consideration of this legislation renders section 2 of the bill surplusage.

PURPOSE

The purpose of the proposed legislation, as amended, is to relieve the city of Elkins, W. Va., of all liability to repay to the United States the sum of $75,000 (plus any interest which may have accrued thereon), which amount represents a loan made to such city by the United States on April 5, 1943, through the Reconstruction Finance Corporation. The bill further provides that in the settlement of the accounts by a certifying or disbursing officer of the United States, full credit shall be given for all amounts for which liability is relieved by this act.

STATEMENT

This bill was the subject of hearings before a subcommittee of the Committee on the Judiciary on July 23, 1955. Various members of the Airport Advisory Commission of the City of Elkins; the mayor of the city of Elkins; the city attorney of Elkins, and the Deputy Assistant Secretary of the Air Force were heard.

The evidence indicated that Elkins, W. Va., is a city with a population of approximately 9,500. The airport, the subject matter of this bill, is located in that city. It appears that under a program of the Civil Aeronautics Administration, the city of Elkins was to provide the land and the United States Government was to pay the cost of constructing an airport. The city of Elkins applied to the Reconstruction Finance Corporation for a loan of $75,000 for the purpose of purchasing the necessary land. On April 5, 1943, the RFC authorized a loan of $75,000, and on July 20, 1944, the RFC purchased 4 percent airport revenue bonds of the city in the amount of $75,000 to evidence the loan. Since this date the city has paid $16,600 on account of interest, but has not been able to and has made no payments on the principal. It would appear that at this time the city has defaulted on bonds aggregating $22,000 and in interest amounting to $19,400. There are also outstanding unmatured bonds in the amount of $53,000, making a total indebtedness on the transaction of $94,400. In addition, there is now pending in the United States District Court for the Northern District of West Virginia a suit by the RFC against the city of Elkins, praying, among other things, for judgment against the city in the amount of the defaulted bonds and interest.

The evidence further discloses that this airport was built during wartime, in furtherance of a program of the Civil Aeronautics Administration applicable to the entire country. The evidence indicates that the Government was the moving party in the expanding of this airport as a link in what was deemed necessary in the interest of national defense. A statement, which represents a typical and average period of operation of this airport from December 1954 to June 1955, submitted by Stanley K. Armentrout, manager of the Elkins Municipal Airport, is as follows:

A total of 9,842 aircraft contacted the CAA facilities at the Elkins Airport, 729 representing scheduled airline aircraft, 2,800 civilian or of commercial and private type aircraft, 6,313 military aircraft. The number of scheduled airline aircraft representing a small percentage of all scheduled airline traffic passing over Elkins, possibly 2 or 3 percent. The number of civilian or commercial and private aircraft representing one-fourth of all civilian or commercial and private aircraft passing over Elkins. The number of military aircraft representing two-thirds of all military aircraft passing over Elkins. These figures are actual for a given period (from December to June 1955) and as indicated previously represent a typical 6 months' period of operation. Therefore, to obtain the same information for 1 year's operation simply double the figures herein submitted.

Forty-five distress calls were received in addition and in relation with the above operation (30 estimated due to equipment failure on board, the remainder due to unfavorable weather). This is covering the same 6 months' period.

Sixty actual landings and takeoffs are recorded in the private aircraft register at the manager's office at the airport (this represents private foreign aircraft entirely, since American Airline flights are not ordinarily recorded; and neither are local flights recorded). This is one month's operation, July, and may be considered a typical given period of time.

American Airlines flights have been able to use the airport to a much better advantage due to the removal of the hill on runway No. 22 north, and a marked improvement of service has been indicated over the past year.

Due to the topography of the land in this part of West Virginia, the value of this airport is special in its character. It is located amid the mountains and has become a central place for certain training maneuvers for the Air Force as well as headquarters for rescue measures throughout the adjoining area. In setting forth its opposition to this legislation, the report of the Treasury Department and its accompanying memorandum indicate that the RFC has made loans

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to other public agencies in the several States, aggregating several hundred million dollars, and the bonds evidencing a large number of these loans have been sold to private insurance companies and other private investors, some at a premium. It is stated that C. A. A. has had contracts with approximately 300 municipalities throughout the country similar to the contract with the city of Elkins. It is further stated that if the bill is enacted into law it may encourage other public agencies whose bonds are still held by RFC to ask Congress for similar relief, and thus adversely affect the sale of such securities.

The committee is aware of these facts. The testimony is to the effect, however, that the city of Elkins cannot pay this indebtedness. Under the ordinance passed by the city of Elkins, the payments were to come from the net income of the airport, and the receipts, after operating expenses have been deducted, are not sufficient to accommodate the liability imposed upon the city in reference to this airport.

It is doubtful that the RFC can collect its debt through any other source than the net income as provided in these revenue bonds.

The income of this airport is derived mainly from American Airlines and from private planes operating in and from the airport. In the action instituted by the RFC against the city of Elkins it is alleged that the rates should be higher, so that some surplus would be available to apply toward the bonded indebtedness and the interest thereon. In this connection, it was testified to that American Airlines in its yearly operation to Elkins, W. Va., did so at a loss of $75,000 a year, but would maintain such service provided matters remained in a status quo. At this point it is to be noted that any planes connected with the Government, any manuevers by the Government, or any training program operated from this field are free of charge, so that any plane or planes using the field belonging to the United States Government at this time make no contribution to the receipts of the airport, other than what may be gained from the sale of gasoline. It is understood that governmental use of this airport is extensive.

The position of the Air Force in this matter does not concern itself with the finances involved. On the other hand, the Air Force is eager to encourage and support any extension of aviation facilities that are appropriate and sound. The statement of the Deputy Assistant Secretary of the Air Force indicates that the Elkins Municipal Airport is an excellent one and represents the expenditure of a gread deal of money, and while it cannot be claimed that it is essential to national defense at this moment, it is reasonable to believe that if it was so important as to require its construction during World War II, a future emergency, particularly of the sudden all-out destructive type, which has been anticipated, would be just as likely to require this facility as was the case 10 years ago. His statement further contends that the rugged terrain in West Virginia makes adequate airports almost a necessity, either for direct defense or as auxiliary emergency support, stating that it is just as important to have adequate airports across the Appalachian and Allegheny Mountains as it is to have bridges across the Mississippi and Ohio Rivers. In pointing out the value of this airport in an emergency, the Deputy Assistant Secretary of the Air Force stated that he did not think this could be better expressed than by the recent editorial in the Elkins Inter-Mountain, printed about 3 months ago, or about April 22, 1955. This editorial relates to the usefulness of the airport to the Operation Minuteman, the National Guard mobilization exercises which were held at that time. The editorial

states that the airport was the first consideration in setting up the local phase of Operation Minuteman, and the importance of the airport in time of disaster never was better demonstrated.

The editorial continues:

> This newspaper has often pointed to the availability of the Elkins Airport for emergencies. * * * It offers a haven for persons who may some day be driven from their homes in large centers of population by attacks by the enemy or even disasters not resulting from war.

The Deputy Assistant Secretary of the Air Force, in enclosing his written statement, commented as follows:

> As I stated in the beginning, I am not in a position to suggest the form or the extent of the financial relief which should be extended to the city of Elkins. I can testify that the Air Force would very much regret to see an airport of this value and capacity closed down and become unavailable for emergency use.

In a later portion of the hearing he testified that, in his opinion, the loss of this airport would be distinct and substantial, under all of the circumstances.

There can be no doubt, as indicated by the hearings, that the city of Elkins does not have any defense, from a legal standpoint, to the suit instituted by the RFC. It is also true that many other municipalities have been benefited by the same program as was the city of Elkins and in some instances, as in the case of the city of Elkins, overextended themselves.

The sole question in this case then is, should the Congress, as a matter of general welfare, relieve the city of Elkins from its responsibility? It would appear from all the facts that this airport is unique in its characteristics and has acquired potentialities that make it a substantial contribution to the Nation in the event of an emergency. There is no question in the mind of the committee that this airport is necessary to effective air travel, both civilian and military, throughout the region it serves. It is also apparent from the testimony that, aside from lives saved, perhaps many times the money owed by the city of Elkins has also been saved by the facility of its airport. The committee does not desire and does not consider any action taken in this instance to be a precedent for similar action in other cases. As to the airport in the city of Elkins, W. Va., the committee is of the opinion that the good which will come from relieving the city of Elkins of its liability to pay the United States Government the amount it owes will be far outweighed by its contribution to aviation generally, both civilian and military. The committee does not believe that this airport should be placed in jeopardy because of the inability of the city of Elkins to repay the Government this loan. The committee concurs in the views expressed by the Air Force and further believes that the only way this airport may be successfully operated is to relieve the city of Elkins from its original obligation.

In the light of what the committee views to be the best interests of the country, both as to civilian and military aviation, and for the purpose stated of relieving the city of Elkins from its legal liability, it recommends that this legislation, as amended, be considered favorably.

Attached hereto and made a part hereof are the report and memorandum from the Department of the Treasury, and the statement of the Deputy Assistant Secretary, United States Air Force, herein before referred to.

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TREASURY DEPARTMENT,
Washington, July 22, 1955.

Hon. HARLEY M. KILGORE,
Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your letter dated June 15, 1955, requesting this Department's views regarding S. 2182, for the relief of the city of Elkins, W. Va. The bill would relieve the city of Elkins of all liability to repay the loan (and interest thereon) which it had received from Reconstruction Finance Corporation. The bill also contains a specific provision which would deprive Federal courts of jurisdiction to entertain a suit against the city of Elkins to enforce payment of this loan. Since there is now pending in the United States District Court for the Northern District of West Virginia a suit by RFC for judgment against the city in the amount of the defaulted bonds and interest, this provision would deprive this court of jurisdiction to proceed with the suit.

Under a program of Civil Aeronautics Administration, the city of Elkins was to provide the land and the United States Government was to pay the cost of constructing an airport. The city of Elkins applied to RFC for a loan of $75,000 for the purpose of purchasing the necessary land. On April 5, 1943, RFC authorized a loan of $75,000 and on July 20, 1944, RFC purchased 4 percent airport revenue bonds of the city in the amount of $75,000 to evidence the loan. Since the date of disbursement the city has paid $16,600 on account of interest but has made no principal payments. At this time the city has defaulted on bonds aggregating $22,000 and in interest amounting to $19,400. Outstanding also are unmatured bonds in the amount of $53,000.

The Treasury Department opposes enactment of this bill for the following reasons: (1) it would establish a highly undesirable precedent not only with respect to CAA's airport program and RFC's portfolio of public agency securities but also from the standpoint of interfering with the established and usual judicial processes and (2) by adversely affecting the marketability of other bond issues held by RFC, it would interfere with the carrying out of the congressional mandate in the Reconstruction Finance Corporation Liquidation Act to liquidate the assets and wind up the affairs of RFC "as expeditiously as possible." Our reasons for opposing this legislation are set forth in greater detail in the attached memorandum.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your Committee.

Very truly yours,

LAURENCE B. ROBBINS,
Acting Secretary of the Treasury.

MEMORANDUM RE S. 2182, FOR THE RELIEF OF THE CITY OF ELKINS, W. VA.

Pursuant to the act of Congress authorizing RFC to make loans to public agencies of States, RFC on April 5, 1943, authorized a loan of $75,000 to the city of Elkins, W. Va., to enable the city to purchase certain land for an airport. Under a program of Civil Aeronautics Administration, the city was to provide the land and the Government was to pay the cost of constructing the airport. On July 20, 1944, RFC purchased 4 percent airport revenue bonds of the city in the principal amount of $75,000 to evidence its loan. Said bonds were scheduled to mature serially on May 1 of each of the years 1945 to 1973, inclusive. Since the date of disbursement of the loan, the city has paid $16,600 on interest, but has made no principal payments. As of May 1, 1955, the city is indebted to RFC as follows:

Unmatured bonds	$53,000
Defaulted bonds	22,000
Defaulted interest	19,400
Total	94,400

There is now pending in the United States District Court for the Northern District of West Virginia a suit by RFC against the city of Elkins, W. Va., praying, among other things, for judgment against the city in the amount of the defaulted bonds and interest.

S. 2182 would relieve the city of Elkins, W. Va., from all liability to repay the loan and the interest accrued thereon. The bill would also deprive Federal

courts of jurisdiction to maintain any suit against the city for enforcement of the loan made by RFC.

RFC had no authority to make a grant to a municipality, and S. 2182 would, in effect, result in RFC's having made a grant to the city of Elkins.

RFC has made loans to other public agencies in the several States, aggregating several hundred million dollars, and the bonds evidencing a large number of these loans have been sold to insurance companies and other private investors, some at a premium. The bonds evidencing the balance of such loans which have not been paid and retired and which have not been sold to private investors are held in the portfolio of RFC, and principal and interest payments thereon are being collected as and when due. To our knowledge, no other public agency has had legislation such as S. 2182 introduced for its benefit.

We are informed by CAA that it had contracts with approximately 300 municipalities throughout the country similar to its contract with the city of Elkins whereby the cities were to furnish land for the airports, and in none of such instances did the Government have to pay for the land as well as to pay the cost of the construction of the airport. If the bill, S. 2182, be enacted into law, it may encourage other public agencies whose bonds are still held by RFC to ask Congress for similar relief, and thus adversely affect the sale of such securities. Certainly, this bill is special legislation and discriminatory in that other public agencies have been required to repay loans made to them by RFC; and other municipalities which have entered into contracts with CAA similar to the contract with the city of Elkins have been required to pay for the land.

Moreover, favorable consideration of legislation of this type would seriously impair the marketability of similar securities presently held by RFC and would therefore interfere with the carrying out of the congressional mandate contained in the Reconstruction Finance Corporation Liquidation Act to liquidate the assets and wind up the affairs of RFC "as expeditiously as possible."

It is our considered opinion that section 2 of S. 2182—"Prior to June 1, 1956, no Federal court shall have jurisdiction to hear any claim against the city of Elkins based on the liability from which such city is relieved by the first section of this act."—is unnecessary, because if Congress should see fit to pass a bill relieving the city of Elkins of all liability to repay the $75,000 loan, plus any interest which may have accrued thereon, RFC would immediately dismiss the pending suit. More important, however, from the standpoint of sound and orderly Government it seems highly undesirable for legislation to interfere with the established and usual judicial processes by depriving a court of authority to proceed with a suit already pending. In addition, it should be pointed out that the mere pendency of this bill could adversely affect the obtaining of a prompt hearing and decision in the pending suit by RFC against the city of Elkins because the court may wish to wait until the bill is acted on.

For the reasons above mentioned we recommend against enactment of this bill.

Statement of Bradley D. Nash

Deputy Assistant Secretary, U. S. Air Force

My name is Bradley Nash, and my position is Deputy Assistant Secretary, United States Air Force. My responsibilities are particularly in the field of civil aviation, related to the commercial airlines, public and private airports, and the other aspects of aviation which relate to civil air activities. I have been requested by this committee to comment upon the proposed legislation to free the city of Elkins, W. Va., from certain financial obligations having to do with the Elkins Municipal Airport.

The Air Force is limited in its interest in the financial aspects of this matter. It would not be proper to express opinions as to the right or wrong of the economic and financial consequences of this legislation as it relates to Government policy.

On the other hand, the Air Force is eager to encourage and support any extension of aviation facilities that are appropriate and sound. The Elkins Municipal Airport is an excellent one and represents the expenditure of a great deal of money. The Air Force cannot claim that it is essential to national defense at this moment. On the other hand, it is reasonable to believe that if it was so important as to require its construction by the Government during World War II, a future emergency, particularly of the sudden all-out destructive type, which has been anticipated, would be just as likely to require this facility as was the case 10 years ago. The rugged terrain in West Virginia makes adequate airports almost a necessity, either for direct defense or as auxiliary emergency support. It is just as important to my mind to have adequate airports across the Appalachian and Allegheny Mountains, as it is to have bridges across the Mississippi and Ohio Rivers.

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The Elkins Municipal Airport now is served by regular scheduled flights of American Airlines. This daily service gives excellent connections with Washintgon as well as the west.

Finally, I would like to point out the value of this airport in an emergency. I do not think that this can be better expressed than by the recent editorial in the Elkins Inter-Mountain, printed just 3 months ago on April 22. This editorial relates the usefulness of the airport to the Operation Minuteman, the National Guard mobilization exercises which were held 2 days before the editorial was printed. The editorial states that the airport "was the first consideration in setting up the local phase of Operation Minuteman, and the importance of the airport in time of disaster never was better demonstrated.

"This newspaper has often pointed to the availability of the Elkins Airport for emergencies * * *. It offers a haven for persons who may some day be driven from their homes in large centers of population by attacks by an enemy or even disasters not resulting from war."

As I stated in the beginning, I am not in a position to suggest the form or the extent of the financial relief which should be extended to the city of Elkins. I can testify that the Air Force would very much regret to see an airport of this value and capacity close down and become unavailable for emergency use.

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Calendar No. 1233

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1218

MINIMUM 1956 RICE ACREAGE ALLOTMENT

JULY 28, 1955.—Ordered to be printed

Mr. ELLENDER, from the Committee on Agriculture and Forestry, submitted the following

REPORT

[To accompany S. 2511]

The Committee on Agriculture and Forestry, to whom was referred the bill (S. 2511) to amend the Agricultural Adjustment Act of 1938, as amended, having considered the same, report thereon with a recommendation that it do pass with amendments.

This bill, with the committee amendments, would prevent an excessive reduction in the national rice acreage allotment for 1956, by providing for a minimum allotment for 1956 equal to 85 percent of the 1955 allotment.

For the first time in many years there has been during the present marketing year a substantial carryover of rice. This supply situation caused a cut of approximately 22.7 percent in the rice acreage allotment for 1955, compared to the 1954 acreage. There is reason to believe that the unusually large carryover of rice is a temporary situation, but the Department of Agriculture estimates that without this legislation the 1956 allotment might be cut as much as 25 percent below the 1955 allotment, with considerable hardship to producers. A combination of several good crop years and smaller than anticipated exports has contributed to the present situation.

While rice is not grown extensively throughout the United States, it is a major crop and in the regions where it is produced it is grown intensively, so that whole communities in such areas depend for their economic existence upon this crop.

It is anticipated that there will be a substantial increase in rice exports under the programs of sale abroad for foreign currency authorized by Public Law 480, 83d Congress. The rice marketing quota law requires, however, that the Secretary of Agriculture shall establish the national acreage allotment for rice not later than December 31 of each calendar year. Even though exports under Public Law 480 should remove virtually all the surplus of rice, it is unlikely that this movement would take place to a sufficient extent before the

Secretary makes his determination to be reflected in the 1956 allotments.

If the Secretary should be required to determine rice allotments for 1956 solely on the basis of present figures, it is estimated that the allotment for 1956 would be approximately 59 percent of the 1954 acreage. This would obviously present an impossible economic situation to the areas which depend largely upon rice for their income and would be grossly unfair in view of the probability of expanded rice exports which will, in fact, reduce substantially the existing surplus.

The committee amendments would correct an error in the reference to the law being amended, insert necessary punctuation, and make the minimum 1956 allotment 85, rather than 75, percent of the 1955 allotment, since your committee felt that a 25-percent reduction following the 22.7-percent reduction this year would have too serious an impact on producers

DEPARTMENTAL VIEWS

Because of the need for action before Congress adjourns and the time element involved, there was not an opportunity to obtain a formal written report from the Department of Agriculture on this bill. However, a spokesman for the Department appeared before the committee and testified in favor of the bill as amended by the committee.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

AGRICULTURAL ADJUSTMENT ACT OF 1938, AS AMENDED

* * * * * * *

SEC. 352. The national acreage allotment of rice for any calendar year shall be that acreage which the Secretary determines will, on the basis of the national average yield of rice for the five calendar years immediately preceding the calendar year for which such national average yield is determined, produce an amount of rice adequate, together with the estimated carryover from the marketing year ending in such calendar year, to make available a supply for the marketing year commencing in such calendar year not less than the normal supply: *Provided, however, That for 1956 no national acreage allotment shall be established which is less than 85 per centum of the final allotment established for the immediately preceding year.* Such national acreage allotment shall be proclaimed not later than December 31 of each year.

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Calendar No. 1234

84TH CONGRESS
1st Session

SENATE

REPORT
No. 1219

AMENDMENTS TO THE NATURAL GAS ACT

(Exemption of Producers)

REPORT

OF THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

ON

S. 1853

TO AMEND THE NATURAL GAS ACT, AS AMENDED, TOGETHER WITH THE MINORITY VIEWS OF MR. MAGNUSON, MR. PASTORE, MR. POTTER, AND MR. PURTELL, AND THE INDIVIDUAL VIEWS OF MR. DUFF AND MR. PAYNE

JULY 28, 1955.—Ordered to be printed

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GOVERNMENT PRINTING OFFICE
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Calendar No. 1234

84TH CONGRESS, 1st Session } SENATE { REPORT No. 1219

AMENDMENTS TO THE NATURAL GAS ACT

JULY 28, 1955.—Ordered to be printed

Mr. MONRONEY, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 1853]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 1853), to amend the Natural Gas Act, as amended, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

Extensive hearings were held over a period of several weeks on S. 1853 and other bills relative to changes in the Natural Gas Act. Several amendments to the original bill were accepted by your committee. These amendments were designed, in all cases, to more adequately protect consumers against unjustified increases in the price of gas. Similarly, changes were made in the original House bills dealing with this problem and the House committee reported a clean bill (H. R. 6645) containing provisions identical to the amendments adopted by your committee, except for the addition by your committee of one clarifying sentence at the end of subsection (e) of section 3 reading as follows:

> No provision of any such contract shall be construed to authorize its cancellation because of the enactment of this subsection or subsections (d) or (f).

In submitting this report, your committee subscribes to the views expressed by the majority report of the House Interstate and Foreign Commerce Committee, which is set forth in appendix I. In addition to the views expressed in the House majority report, your committee submits the following:

STATEMENT OF THE PURPOSES OF THE BILL

S. 1853, as amended, would exempt independent producers and gatherers (hereinafter referred to as producers) of natural gas from strict public utility regulation under the Natural Gas Act as interpreted by the Supreme Court in the case of *Phillips Petroleum*

Company v. *Wisconsin* (347 U. S. 672). With the exceptions hereinafter noted, the bill would write the law for the future as it had been generally believed to be for 16 years prior to the Supreme Court's decision in the Phillips case. (The majority and dissenting opinions in the Phillips case are printed in the appendix of this report.)

In the public interest, and especially for the protection of gas consumers against excessive gas-price increases, the bill provides certain practical prohibitions and regulations without destroying the incentives in a heretofore unregulated industry.

The Phillips decision holds that the production of natural gas is charged with a public interest and is therefore subject to regulation as to service rendered and price charged. The bill would remove the authority of the Federal Power Commission to exercise this type of public utility regulation over such a producer. However, the producer is prohibited from requiring the natural-gas company to pay, because of certain escalation clauses, more than the reasonable market price for gas purchased under existing contracts and from canceling contracts because of such limitation.

Gas, as a natural resource, is subject to far different criteria in its production and in the development of a reliable source of supply than the ordinary services rendered by a utility company.

Unless the free play of competitive industry is permitted, it is doubtful indeed that the great risk necessary will be taken to discover and develop the huge necessary supplies now required to feed the many interstate pipelines which tap the known gas fields. Unless new supplies are discovered each year in amounts approaching the consumption, we will be using up our reserves at a dangerous rate and the days of convenient natural-gas service at distant points will be numbered.

Furthermore, none of the usual protection and privileges of a public utility is present in the production phase of natural gas. The producer is given no monopoly over area or territory. He is not protected by restricted entry or by the franchise. He has no protected market and is not assured of a price sufficient to guarantee a fair return on his investment.

It should be noted that instead of a protected market and a restricted entry, the field is wide open to anyone who is willing to enter the gas-production business. Indeed, as the price of gas increases, the attraction of more producers into the business is certain to occur as it traditionally does in our free enterprise system.

The producer sells his commodity to anyone who wants to buy it—to an intrastate pipeline regulated by a State utility commission; to an interstate pipeline under the jurisdiction of the Federal Power Commission; or to an independent buyer for use in the field; or to industry on a direct-sales basis. Often these sales will be from the same wells or from the same gathering lines or from the same natural gas processing plant.

The producer of gas is as independent of the utility company as is the producer of coal which sells to an electric-generating plant. Here the coal is processed into electrical energy through generation. But in all cases the cost of the coal is left to the free play of the market price for the commodity.

To regulate sales of gas by independent producers and gatherers is to depart from the American system of competitive enterprise. There

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is no more reason to regulate gas producers than there is to regulate coal, oil, iron ore, and other commodities. Gas production is a competitive enterprise. There are some 8,000 persons and corporations engaged in the business. Opponents of this legislation contend that gas production is monopolistically controlled; that, although there are thousands engaged in the business, only a few control most of the gas reserves.

However, uncontroverted statistics have been presented to show that the concentration ratio is less in the gas-producing industry than it is in any major extractive industry except bituminous coal and less than it is in 382 of the total 452 manufacturing industries. So regulation of gas production and sales by independents cannot be justified on the ground that the business is monopolistically controlled without logically calling for regulation of most all extractive industries and the great majority of manufacturing industries.

Furthermore the fluctuation in the price of natural gas in the field shows no signs of monopolistic price setting. The wide variety of prices found in the various fields and in the same field indicate definite evidence of arm's length bargaining between buyer and seller throughout the years. The price fluctuations as they occur throughout the years have been the result of supply and demand conditions and the result of independent negotiations at every step of the contract.

(See appendix II for tables of comparative concentration and pricing practices.)

In addition to granting producers their inherent freedom the legislation offers protection for consumers even beyond the protection afforded by competition. In the case of new or renegotiated purchase contracts of natural-gas companies made subsequent to the passage of this legislation, the objective is accomplished by granting to the Federal Power Commission authority in fixing the rates of a natural-gas company to prohibit it from expensing an amount in excess of the reasonable market price for the gas purchased under its contract.

The standard of reasonable market price is also applied to rate increases due to the operation of certain escalation provisions of existing contracts between a producer and a natural-gas company. A natural-gas company (transmission line), except in the case of increases due to "fixed periodic step-up" or "tax escalation" clauses, can expense (charge as an operating expense in computing the regulated resale rate of the natural gas) only that part of the increase which results in a price which does not exceed the reasonable market price, even though the contract contains an escalation clause providing for a greater price. The purpose of this provision is to protect the consumer against unreasonable increases in pipeline rates as a result of the price increases due to the automatic operation of escalation clauses, such as favored nation, spiral, and similar types of escalation clauses. All of the evidence before your committee was to the effect that the principles embodied in "fixed periodic step-up" and "tax escalation" clauses in existing contracts are fair and reasonable.

The bill also amends the definition of "interstate commerce" to include foreign commerce, insofar as such commerce takes place within the United States.

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ANALYSIS OF S. 1853 AS AMENDED

Section 1 of S. 1853, as amended, amends the definition of "interstate commerce" in paragraph (7) of section 2 of the Natural Gas Act to include movements between any point in a State and a foreign nation extending the jurisdiction of the Federal Power Commission to that part of such commerce which takes place within the United States.

Section 2 of S. 1853 adds two new paragraphs to section 2 of the Natural Gas Act, numbered "(10)" and "(11)".

Paragraph (10) provides that "interstate transportation of natural gas" does not begin until the actual physical delivery in or near the field or fields of production of natural gas into the interstate transportation facilities of the long-line natural-gas transporter.

Paragraph (11) defines "sale of natural gas in interstate commerce for resale" to be such sales as are made after the transportation mentioned in paragraph (10) has commenced.

Except for the authority given the Federal Power Commission by section 3 of the bill as to contracts made or renegotiated after its effective date and as to certain types of escalation clauses, the new definition included in paragraphs (10) and (11) will exclude from the Commission's jurisdiction wellhead sales of natural gas, sales at a central point in or near the field or fields of production to which the gas had been gathered, and sales at the "tailgate" of a processing plant located in or near the field where the gas is produced. It will also exclude from such jurisdiction all production, handling, and processing of gas occurring prior to such a sale or prior to the receipt of the gas by the transmission company into its interstate transmission facilities. However, any transportation in interstate commerce and any sale in interstate commerce for resale occurring after transportation in interstate commerce has commenced will continue fully subject to Commission jurisdiction.

Section 3 amends section 5 of the Natural Gas Act by the addition of several new subsections fixing "reasonable market price" as the standard for measuring the reasonableness of the prices to be paid by the pipeline company for natural gas under new or renegotiated contracts and under certain escalation clauses in existing contracts.

Subsections (b) and (c) of section 3 apply only to contracts "executed or renegotiated after the date this act takes effect."

Under subsection (b) the Federal Power Commission in connection with rate increases of a natural-gas company based upon new or renegotiated contracts is required to determine, unless there has been a prior determination under subsection (c) whether a contract price is the reasonable market price of the natural gas at the point of delivery and to disallow as an operating expense any sum in excess of the reasonable market price.

Subsection (c) provides that the Federal Power Commission may, upon its own motion, and shall, upon application by a natural-gas company, and after a hearing, determine whether the price to be paid by the natural-gas company under the terms of any contract executed or renegotiated after the date this subsection takes effect is the reasonable market price of the gas, and the natural-gas company may then expense only such amount as does not exceed such reasonable market price.

The bill requires that the Federal Power Commission, in determining the reasonable market price, must consider among other things whether the price has been competitively arrived at, the contracts effect upon assurance of supply and the reasonableness of its provisions as they relate to existing or future prices.

It is the view of the committee that among other things requiring recognition and consideration by the Federal Power Commission in measuring "reasonable market price" are: (1) the quality of the natural gas being purchased; (2) conditions of delivery; (3) the level of prices established currently by generally comparable contracts; (4) prices in different fields in producing areas; (5) whether such prices and the contract price have been established by arm's length bargaining; and (6) the variation of competitive market prices.

Likewise, among other things to be considered in arriving at a reasonable market price, the Commission should take into consideration the character of the fields, the reserves established as they relate to future supply as well as the market conditions in the area, the historical price of gas in the area, as well as the trend of prices in the area and in comparable or competing areas.

Subsections (d) and (e) of section 3 apply only to escalation clauses in contracts in effect at the date the bill becomes a law.

Escalator clauses are defined so as to include all provisions for increases except provisions for increases in prices in specific amounts at definite dates and provisions for reimbursement of the seller for increases in taxes.

If a natural gas company seeks a rate increase based on an increase in price under an escalation clause in an existing contract, the Federal Power Commission is required to determine whether the increased price is the reasonable market price. If the increased price under the contract exceeds the reasonable market price, the natural gas company may expense only such part of the increase in price as results in a price which does not exceed the reasonable market price.

Subsection (e) provides that the natural-gas company shall not be obligated to pay any part of the increase in price based on an escalation clause which results in a price in excess of the reasonable market price. Thus, the natural-gas company shall be permitted to charge as an operating expense under subsection (d) the same price which it is obligated to pay the producer under subsection (e). The said subsection also provides that the existing contract containing the escalation clause shall continue in effect according to its terms as though the subsection had not been enacted. As a further consumer safeguard, and to make it doubly clear that the consumer is protected against the possibility of the cancellation and abandonment of an existing contract by reason of the authority granted to the Federal Power Commission in subsections (d) and (e) section 3 to determine if the increased price accords with reasonable market price, the section contains a provision specifically prohibiting such cancellation.

Subsection (f) requires the Federal Power Commission to allow as an operating expense of a natural-gas company for natural gas produced by it or purchased from its affiliate or subsidiary, the reasonable market price of such natural gas or the contract price, whichever is the lesser.

Subsection (g), for the purposes of section 5 of the act, defines an affiliate of a natural-gas company. It provides that a person shall be

held to be an affiliate of a natural-gas company if such person controls, is controlled by, or is under common control with, such natural-gas company. The effect of these provisions with reference to an affiliate is that the pipeline company cannot pass on to the consumer as the cost of gas purchased from an affiliate under any contract, existing or future, more than the reasonable market price.

Section 4 of the bill adds to subsection (e) of section 7 of the act a provision requiring the Commission, in passing upon applications for certificates of convenience and necessity supported by a natural-gas purchase contract, to consider whether the price to be paid for the gas under the contract is the reasonable market price thereof at the point of delivery.

COMMITTEE AMENDMENTS TO S. 1853

During the course of the hearings on this legislation, it became evident that the regulatory jurisdiction of the Federal Power Commission over natural-gas companies should be clarified in order to adequately protect the consumer interest. This protection is afforded by a series of amendments adopted by the committee. An explanation of each of the pertinent and substantive amendments follows:

Section 1 of the bill, as amended, is new. It gives the Federal Power Commission jurisdiction it does not now have over the importation and exportation of gas into the United States. Under the decision in *Border Pipe Line Co.* v. *Federal Power Commission* (171 F. 2d 149), it is questionable under present law whether the Commission can exercise jurisdiction over gas imported or exported between a State and a foreign country. The amendment of your committee cures that jurisdictional defect.

Section 2 of the amended bill conforms in all respects to section 1 of S. 1853 as introduced.

Section 3 of the bill, as amended, and section 2 of S. 1853, as introduced, add several new subsections to section 5 of the Natural Gas Act.

The new subsection (b), which would be added by the bill as amended, is designed to give the Federal Power Commission authority to determine whether the price at which a natural-gas company hereafter contracts to purchase gas from a producer is the reasonable market price at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced, and to prevent a natural-gas company from using any price in excess of the reasonable market price as a basis for an increase in its rates.

In determining reasonable market price, amended subsection (b) requires the Federal Power Commission to consider among other things (1) whether the price has been competitively arrived at, (2) the effect of the contract upon the assurance of supply, and (3) the reasonableness of the contract as it relates to existing or future prices.

The specific criteria were included in the subsection as introduced. The qualifying phrase "among other things" is not in the original. As hereinbefore detailed in this report and in the House majority report, the phrase would permit the Commission to consider a number of factors in arriving at the reasonable market price. It is the belief of your committee that this is a desirable amendment for the protection of the consumer and should be adopted.

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As originally introduced, subsection (b) of section 3 (formerly sec. 2) provided for the fixing of the reasonable market price "in the field where produced." In order to include the expense of gathering as an element of cost in determining the amount which a natural-gas company could charge as an operating expense in the fixing of rates, the subsection specifically provided for adding the gathering charge, if any, to the field price. The subsection as amended by your committee retains the same basic purposes through a different approach. It provides for the fixing of the reasonable market price at the point the gas enters interstate commerce as that term is defined in subsection (10) of section 2 of the bill as reported.

Tying the term "reasonable market price" to this point of delivery permits a natural-gas company to include in its rate base both the cost of the natural gas in the field and any gathering charge incident to the delivery of the gas at the point it enters interstate commerce. Thus specific reference permitting a natural-gas company to include the gathering charges as an item of expense is not required and is not included in the amended subsection.

Subsection (b) contained a provision which expressly provided that the determination of a new market price under the provisions of an existing contract was not to be considered a new or renegotiated contract within the meaning of the subsection. The effect of this provision would have permitted producers to obtain the benefits of price increases based on any type of escalation clause in an existing contract even though that increase in price exceeded the reasonable market price. As more fully explained in the amendment dealing with new subsection (d) and (e) of section 3, your committee concluded that certain types of escalation clauses in existing contracts should in the public interest be subject to the scrutiny of the Federal Power Commission and adopted, the said new subsection providing for the placing of a ceiling on increases based on such escalation clauses.

Subsection (c) of section 2 as originally proposed (now subsec. (c) of sec. 3) provided that a determination by the Commission as to whether the price or prices to be paid under a gas-purchase contract met requirements of the provisions of subsection (b) could be made only on application of the natural-gas company itself. The subsection as amended would permit such a determination to be made by the Commission on its own motion after notice and opportunity for hearing. Further, the section has been expanded so as to spell out in detail that in such a proceeding the Commission shall determine the amount a natural-gas company will be allowed to charge for the purpose of increases in rates and charges thereafter filed by it under the act, such amount to be only that part of the contract price as does not exceed such reasonable market price.

Contracts between producers and pipeline companies are usually for terms of 20 years or longer. The long terms are a necessity of the pipeline companies rather than the producers. As an inducement to the producers to commit their gas for long terms, various contract provisions for increased prices have come into general use which are calculated to protect the producers against inflation and rising prices. The testimony of witnesses representing gas distributing and consumer interests at the committee hearings complained of several types of escalation clauses in contracts between producers and the pipeline companies. This testimony was directed particularly at the two party

and the third party favored nation clauses, the price redetermination clauses, the price renegotiation clauses, and the spiral escalation clauses. Your committee has concluded that these types of escalation provisions should be subjected to control by the Federal Power Commission to the extent of limiting their operation so that prices for gas cannot exceed the reasonable market price and operate as the basis for increased pipeline rates. The committee recognizes, however, that there must be some provision for adjustment of prices in long-term contracts for the purchase of gas. Producers cannot be expected to enter into such contracts at current prices without some provision for adjustment to keep pace with the decline in the value of the dollar or with the market price of natural gas. They could only be induced to do so by fixing a high price for the entire term which would not be in the consumers' interest.

One type of escalation provision is the "step-up"—a provision for increase in a specified amount (usually ½ cent per thousand cubic feet) at definite intervals (usually each 5 years). These provisions are in the interest of the pipeline companies and consumers. Testimony before the committee established the fact that, in many cases, the "step-up" clause was devised to provide a means whereby pipeline companies could purchase their requirements under long-term contracts, paying less per unit at the beginning when their costs were high, with provision for periodic increases to take effect as their costs were reduced. This method enabled the companies to provide consumers with gas at a relatively stabilized price throughout the contract. The overall effect of the "step-up" clause was to protect consumers against sharp price increases.

Another type generally recognized as necessary is the tax-increase clause providing for reimbursement of the seller for increase in production and other taxes levied upon him after the contract is signed. Without some such clause the producer might be taxed into insolvency and rendered unable to produce and deliver the gas under his contract.

For these reasons the committee has excluded from the Federal Power Commission control the "step-up" and the tax-increase clauses.

New subsection (d) of section 3 of the reported bill provides the necessary authority to protect the consumer against unreasonable increases in their gas prices resulting from these escalation provisions. It provides that, where the request for a rate increase is based on a price increase resulting from the operation of an escalation clause other than a "periodic fixed-price step-up" clause or "tax increase" clause in an existing contract, the Commission may not consider as an operating expense in the fixing of the charges of a natural-gas company any part of the increase in price which results in a price in excess of the reasonable price thereof. It is the intent of this subsection that a natural-gas company be permitted to charge as an operating expense the price which it is obligated to pay the producer under subsection (e) of section 3 since it seemed apparent to the committee that it would be inequitable for the pipeline company to be bound, under its contract with the producer, to pay an increased price for the natural gas higher than the price it is permitted to include as an operating expense. The subsection defines escalator clauses which are subject to the foregoing scrutiny so as to include all types of such provisions other than periodic fixed price of step-up or tax-increase clauses.

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Added subsection (e) of section 3 is designed to give the consumer further protection against unwarranted price increases due to escalation clauses. It also insures against abandonment of a contract by reason of the authority vested in the Federal Power Commission to scrutinize the reasonableness of a price based on the operation of an escalation clause.

Briefly, this amendment provides that whereunder subsection (d) the Federal Power Commission has made a determination as to the reasonableness of a price increase based on an escalation clause, a natural-gas company shall be obligated to pay a producer only that portion of the price increase which does not exceed the reasonable market price. This subsection, as amended by your committee, specifically provides that an existing contract cannot be canceled or abandoned by a producer by reason of the fact that the Federal Power Commission is granted this authority to fix the reasonable market price and the natural-gas company is not obligated to pay an amount in excess of such price. It is intended that this prohibition against cancellation remain effective even though the contract may have a clause permitting cancellation if any measure of Federal regulatory authority is retained over producers.

Subsection (f) of the legislation as reported requires the Commission in regulating rates and charges of a natural-gas company to allow as an operating expense only the reasonable market price of gas produced by it, and for gas purchased from an affiliate the reasonable market price or the contract price whichever is the lesser. Under the bill as reported, the reasonable market price would be ascertained at the point the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced. Under this subsection (formerly subsec. (d) of sec. 2, S. 1853), as originally drafted, the reasonable market price was to be determined in the field where produced and there was to be added a reasonable gathering charge where the field price was determined before completion of gathering. Here, as in subsection (b) of section 3, the reasonable market price is tied to a point of delivery, thereby making it unnecessary to determine the field price and thereafter add the gathering charge.

The subsection makes the criteria set forth in new subsection (b) for the determination of reasonable market price applicable in the case of gas produced by a natural-gas company or purchased from an affiliate. Thus even in the case of contracts with affiliates it would be necessary for the Federal Power Commission to consider whether the price was the reasonable market price. The bill, as introduced and reported, contained identical definitions of affiliates.

Section 4 of the bill as reported amends section 7 (e) of the Natural Gas Act by adding a new sentence thereto. It provides that in applications for certificates of public convenience and necessity the Federal Power Commission is required to consider whether the price for natural gas under any natural gas purchase contract supporting such application is the reasonable market price in or within the vicinity of the field or fields where produced and to consider, among other things, whether such market price has been competitively arrived at, the effect of the contract upon assurance of supply, and the reasonableness of the provisions of the contract as they relate to existing or future prices.

As originally introduced, this section (formerly sec. 3) provided that the reasonable market price was to be fixed in the field where produced and did not include among the criteria to be considered by the commission in determining the reasonable market price the qualifying phrase "among other things." Your committee has amended this section to make it in conformity with the other provisions of the bill relating to these subjects for the same reasons stated heretofore in this report.

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SEPARATE STATEMENT OF SENATOR JAMES H. DUFF

It is the opinion of the undersigned that S. 1853, with amendments, does not adequately protect consumers from excessive increases in the price of gas which might occur as the result of such exemption.

While it is true that the nature of the natural gas business makes it exceedingly difficult of equitable regulation by yardsticks normally used in utility regulation, it is also true that serious abuses have arisen as the result of favored nation, escalation, and spiral escalation clauses that have resulted in millions of dollars of increased prices to the consumers by private negotiations and renegotiations in which the ultimate consuming public has had no representation and no voice whatever. And if the problem has arisen requiring additional protection for the consumer, it has come about in considerable part as the result of evils developed within the industry itself.

Most producers contend that legislation providing regulation will seriously deter further drilling and thereby endanger an adequate supply to the 30 million consumers now solely depending upon this type of fuel.

In the opinion of the undersigned, the latter argument seems without merit as most gas is discovered in connection with the exploration for oil and so long as the existing 27½-percent depletion allowance is in effect there will be no serious falling off in the exploration for new production. Certainly there was not when the price of gas at the well was only a fraction of its current price and there is no reason to expect a different situation to prevail in the future now that the selling price has so substantially increased.

There is great merit to the contention that it is exceedingly difficult to fairly regulate the price of gas due to the hazards of the business.

The explorer or wildcatter as he is known in the business may drill a large number of dry holes before a producer in paying quantities is discovered. Consequently for a regulatory body to fix a fair return on a producing well, without taking into consideration all the previous outlays leading up to the discovery of a producing well, could even be confiscatory of the returns of a productive well once it had been discovered.

S. 1853, with amendments, does not provide an adequate yardstick whereby the Federal Power Commission can establish a "reasonable market price," and this could result in unfairness to the producer or disaster to the consumer. All of which indicates that the complicated situation with which this legislation proposes to deal has not come up with an adequate formula for exempting the producer and at the same time safeguarding the public interest.

During lengthy hearings important representatives of a large segment of the country's population presented strong testimony that the situation created by the Phillips decision should not be disturbed. The mayors of New York, Philadelphia, Pittsburgh, Baltimore, Nashville, Louisville, Chicago, Detroit, Cleveland, St. Louis, Buffalo, Newark and many other cities and towns opposed any legislation. So

did the Mayors Committee (representing 258 cities, with a population of 32 million) and several State commissions, governors, and other public officials.

Likewise, various State public service commissions and distribution companies presented convincing evidence as to difficulties which would arise if producers were exempted without adequate safeguards to the public.

In contrast to this presentation on behalf of the public to be protected by the Natural Gas Act, your committee did not hear, so far as is recalled, from a single producing company executive. It would seem to have been in order for them to have appeared with appropriate data as to costs and other items whereby the committee could have had a more adequate picture from the producers' point of view.

One of the most controversial and unsolved problems has been how to protect the public against the unrestrained operation of escalator clauses in producer contracts. Many witnesses urged that they be outlawed in their entirety. The bill as now proposed deals to some extent with certain of these contract provisions, but not all. It exempts tax adjustment and automatic step-up clauses in existing contracts.

The bill contemplates that the Commission shall review all prices in future contracts and most price increases under existing contracts. There would appear to be no sound or logical reason for exempting some price increases in existing contracts. The consumer is hurt regardless of the type of clause which brings about the increase, and the public interest requires that the Commission consider their reasonableness and effect.

It is the theory of the bill and amendments that the reasonableness of field prices shall be judged on the basis of the "reasonable market price" as determined by the Commission. The bill itself establishes no definition or standard for this key term.

Many witnesses, including the sponsors of the bill, who appeared before the committee testified that factors other than current prices have to be taken into account. Current prices alone may be dictated by a sellers market which is, of course, distinctly unfair to the public. Historical prices, and costs, cost trends, and various operating factors should all necessarily be taken into account.

While the undersigned voted to report out the bill, it was only because the problems involved are so complicated and so difficult of solution on a regulatory basis that it was felt it was in the public interest that all phases of this difficult problem should have adequate consideration and debate on the Senate floor in justice alike to the producers in a hazardous enterprise and to the millions of the public who have made their vast investment for installation of this necessary fuel.

For the reasons stated the undersigned cannot support the bill, as amended, as reported out by the majority.

JAMES H. DUFF.

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VIEWS OF MR. PAYNE

While in general agreement with the purposes of S. 1853, a bill to amend the Natural Gas Act, as amended, insofar as it would exempt independent producers and gatherers of natural gas from strict public utility regulation under the Natural Gas Act as interpreted by the Supreme Court in the case of *Phillips Petroleum Company* v. *Wisconsin* (347 U. S. 672), it is the opinion of the undersigned that the recommendation of the Federal Power Commission for use of the phrase "just and reasonable price" should have been incorporated in the bill in lieu of references to a so-called "reasonable market price."

In its report on S. 1853, dated May 6, 1955, the Federal Power Commission stated:

> The phrase used in the bill for the Commission to consider in fixing the allowance of payments by interstate pipeline companies to producers is that the payments to producers shall not be in excess of the "market price" or the "reasonable market price." This seems to be less definite than the phrase "just and reasonable price" and the latter appears to be proper.

The phrase "reasonable market price" is a new and undefined regulatory standard; its inclusion in the basic law will leave the Federal Power Commission with a burdensome discretion which may well precipitate endless litigation and create uncertainty in the law, opening the door to the possibility that consumers may not have adequate protection from excessive increases in the price of natural gas in the future.

In a matter of this nature the Congress must carefully weigh the needs of the industry against the consumer interest in arriving at a national policy. The undersigned has carefully reviewed the hearings, reports, and proposed legislation. It is felt that the independent producers have made out a good case for exemption from certain phases of strict public utility type control and regulation. In analyzing the present price structure of the industry, it is clear that the price of natural gas at the wellhead is a relatively minor factor in the price to the consuming public and that the greater portion of the consumer price is for transmission of the gas from the fields to the consumption centers and for actual distribution to consumers. However, unless the language in the law itself spells out the standard for the degree and type of control over the producers which the Federal Power Commission is to exercise, wellhead prices might become a more appreciable factor in determining the price to the consuming public in the future.

If the standard to guide the Federal Power Commission is spelled out in the law as the "just and reasonable price," it is believed that between the Federal Power Commission, with its jurisdiction over interstate commerce, and the State regulatory commissions, with their jurisdiction over intrastate commerce, all components of the industry will be under reasonable regulatory control and consumers will be provided reasonable protection without unnecessarily hindering the development of the industry.

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While the undersigned voted to report the bill to the Senate, he did so because it was felt that this matter should not be further delayed in committee and should have complete and full consideration and debate by the Senate itself in fairness to both consumers and producers.

The undersigned specifically reserves the right to offer and support amendments on the Senate floor to establish the regulatory standard of "just and reasonable price" recommended by the Federal Power Commission and to otherwise improve the bill.

FREDERICK G. PAYNE.

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MINORITY VIEWS

Introduction

The principal issue for the Congress to decide is: Does the proposed legislation in the public interest protect the consumer against unwarranted increases in the cost of natural gas?

We, the undersigned members of your committee, are firmly convinced the answer must be in the negative. In this conclusion we believe we represent a majority of our citizens, particularly the millions of consumers of natural gas who have spent billions of dollars in special equipment in order to use this great source of heat and energy.

Under the Constitution a State does not have the right to regulate the price of natural gas moving into another State (*Interstate Natural Gas Co.* v. *Federal Power Commission*, 331 U. S. 682.) The Federal Government is the only one that can legally do the job.

REGULATION IS IN THE PUBLIC INTEREST

Everyone is agreed that the regulation of the sale and distribution of natural gas is in the public interest. The Congress so found in 1938, when it passed the Natural Gas Act. State legislatures of several of the oil- and gas-producing States [1] have adopted legislation regulating the oil and gas industry. The courts, both State and Federal, have consistently sustained legislation regulating the production, sale, and transportation of gas and of oil.

To be effective, consumer protection must start at the source of interstate travel. It cannot begin, as proposed by this bill, in the middle of the stream leaving the producer free to charge what he will, while at the same time controlling the price everyone else can charge. To urge that such a scheme is fair and equitable and in the consumer interest is sheer hypocrisy.

In *Phillips* v. *Wisconsin* (347 U. S. 672) the Supreme Court of the United States, having the benefit of a complete record made in extensive hearings before the Federal Power Commission, in upholding the regulatory plan of the Natural Gas Act stated:

> protection of consumers against exploitation at the hands of natural-gas companies was the primary aim of the Natural Gas Act.

Gas consumers are captives at the end of fixed lines. For the majority of them the money they have spent to install gas equipment is an

[1] Texas: Tex. Stat. Ann. Sec. 6008, 6014, 6029, 6049c, d, and e; Penal Code, 1112b. *Henderson* v. *Railroad Commission of Texas*, 56 F. 2d 218, app. diss. 287 U. S. 672. *Thompson* v. *Consolidated Gas*, 300 U. S. 55. *Henderson Co.* v. *Thompson*, 300 U. S. 258. *Railroad Commission of Texas* v. *Rowan and Nichols Oil Co.* 310 U. S. 573, reh. den. 311 U. S. 614, 727. Oklahoma: Statutes 52 Okla. Stat. Ann. Sec. 81 et seq. *Quinton Relief Oil and Gas Co.* v. *Corp. Comm.*, 101 Okla. 164, 224 F. 156. *Oklahoma Natural Gas Co.* v. *Choctaw Gas Co.*, 205 Okla., 255, 236 P. 2d 970. *Anderson Prichard Oil Corp.* v. *Corp. Comm.*, 205 Okla., 672, 241 P. 2d 363, app. diss., 342 U. S. 938. Kansas: Statutes Kans. Stat., Laws Ann. 55–601–611. 55–701–713. *Bay Petroleum Corp.* v. *Corp. Comm.*, 36 F. Supp. 66. *Kansas-Nebraska Natural Gas Co.* v. *Corp. Comm.*, 169 K. 722, 222 P. 2d 704; reh. den., 170 K. 341, 225 P. 2d 1054. *Republic Natural Gas Co.* v. *Corp. Comm.*, 173 K. 172, 244 P. 2d. 1196.

investment they can ill afford to lose. As President Truman said in his veto message of similar legislation:

> * * * Unlike purchasers of coal and oil, purchasers of natural gas cannot easily move from one producer to another in search of lower prices. Natural gas is transported to consumers by pipelines, and is distributed in a given consuming market by a single company. The pipeline companies, and in turn the consumers of natural gas, are bound to the producers and gatherers in a given field by the physical location of their pipelines, which represent large investments of funds, and cannot easily be moved to other fields in search of a better price.

(The full veto message is attached hereto marked "Exhibit 1.")

Proponents of this legislation lay great stress on the fact there are 8,000 [2] individuals and corporations engaged in the production of natural gas. They minimize the fact that the great bulk of the production and of the ownership of natural gas reserves is controlled by a small handful of powerful oil companies who may reap excess profits in the hundreds of millions at the expense of consumers out of even moderate increases in the price of gas at the wellhead. (A statement by the Federal Power Commission of the concentration of production and reserves is hereto attached marked "Exhibit 2.")

The high cost fixed gathering, processing, and transmission facilities, plus the fixed investments, result in providing a captive monopolistic public utility market.

Considering the number of producers, it is interesting to note that not one appeared at the hearings to offer any evidence they cannot profitably produce gas at today's prices, or that the increases in prices allowed by the Federal Power Commission since the decision in the Phillips case (June 7, 1954) are below a compensatory level, and do not permit the producers to realize a reasonable profit.[3] In short, there was no testimony the producer has or would suffer any losses as the result of protective legislation.

In fact, the entire case for the producers is based on the presentation in the most favorable light of statistical data and economic assumptions designed to show, not that they are losing money, but that they are not obtaining that portion of the consumer's dollar they would be able to obtain if they could charge all the traffic would bear.

Illustrative of the nebulous character of data is an analysis of the statistics of the proponents' chief economic witness [4] relating to the cost of natural gas in several Virginia cities, one of which is referred to in the appendix of the majority report of the House Interstate and Foreign Commerce Committee. Made at the request of proponents of the legislation, the industry witness [5] summarized his analysis as follows:

> Dr. Boatwright's figures are not, however, recent enough to reflect the full extent of the increase in current field prices. The current field price of natural gas sold by Commonwealth is approximately 14.89 cents per thousand cubic feet according to my tabulation, and 14.77 cents as shown by Chairman Kuykendall's figures presented to the House committee, an increase of almost 35 percent over Dr. Boatwright's 1953 figure of 11 cents and almost 106 percent over the 1950 figure of 7.24 cents as shown in Chairman Kuykendall's report.
>
> While I have no comment as to the figures presented by Dr. Boatwright with regard to cities other than those served by Commonwealth, in my opinion, the figures related to our customers are so misleading as to be meaningless.

[2] The testimony varied with estimates ranging from 4,500 to 8,000 purchasers.
[3] Exhibit 3. Statistics relative to independent producer filings with Federal Power Commission.
[4] Dr. John W. Boatwright (Standard Oil Company of Indiana).
[5] Testimony of James O. Watts, vice president and general counsel, Commonwealth Natural Gas Corp., Virginia, Senate hearings.

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Over 20 million homes are served by natural gas. Scores of industries use it as a source of energy and power. Convincing evidence was presented by spokesmen for local distributing companies that unless the price of natural gas was controlled from the wellhead to the consumer it was inevitable that the price would rise to heights where it would no longer be economically feasible to use it. In fact, the testimony conclusively showed that in many areas the delivered cost of natural gas had advanced to a point where it is being priced out of the market. There can be no argument but that in these areas any increase in price at the wellhead or along the line could well result in destroying the investments, not only of the distributor but also of the consumer who had spent his money to equip his home with appliances to use a source of energy which he had been assured, under the pressure of modern sales methods, would be available at reasonable prices for many years to come.

Generally speaking, natural gas is found and produced as a by-product of oil. General Thompson, of the Texas Railroad Commission, in testifying in support of the legislation, stated that "nearly all gas discoveries in my experience have been found incident to the search for oil." All witnesses agreed with the general's conclusion. It is indeed perplexing and paradoxical to conform this conclusion to the thesis of the majority that unless producers are freed from regulation, it is "doubtful indeed that the great risks will be taken not only to discover but to develop the huge necessary supplies now required to feed the many interstate pipelines which tap the known gas fields." If the real financial incentive for exploration and discovery comes from the search for oil, it does not seem logical to conclude that reasonable regulation of the field prices of natural gas would have any appreciable effect on exploration.

The facts are that since the Supreme Court decision in the Phillips case in June 1954, there has been no observable decline in the number of exploratory wells drilled or the amount of money being spent on exploration. Instead the industry reports an increase, not a decrease, in the number of wells drilled (Report, Branch of Petroleum Economics, Bureau of Mines, hereto attached marked "Exhibit 4").

This Nation has always been dedicated to the free-enterprise system. We have always shied away from Government control. But in some instances, notably in the field of public utilities, the natural law of supply and demand has failed to meet our requirements. As a consequence the Government—Federal, State, and local—has had to move in and occupy the field, and the regulation of transportation companies, electric companies, telephone and telegraph companies and domestic water-supply companies has long been an accepted, and welcome, part of the American economic system.

The Natural Gas Act does not compel a producer to sell his production in interstate commerce. Except for State conservation laws governing the production of gas he is a completely free agent. But once having dedicated the gas to public use—a use made available to him by reason of the billions of dollars invested by the public in the building of pipelines and by the buyers of equipment to use his product—the price which the producer can charge is subject to regulation under the act. And under the law that price must be a just and reasonable price—one that will protect the consumer and also

guarantee to the producer a fair and reasonable return on his investment.

The 30 large oil and gas-producing companies which control gas reserves approximating 63 percent of the total proven reserves in the country are among the most prosperous of our industrial organizations. They are compensated for their oil-drilling risk by a 27½-percent income-tax exemption. This tax subsidy is in addition to the fair and reasonable rate of return which under proper protective legislation they would be permitted to earn from the sale of their gas in interstate commerce.

Natural gas companies operating under the umbrella of the Natural Gas Act are in a sound financial condition with high earnings records. Their stocks are classed among the "blue chip" stocks of the market. There is every reason to believe that the producer would likewise prosper under the law.

The producers contend that under existing law the task of the Commission in regulating from 4,500 to 8,000 producers is well nigh impossible. They also point to the fact that to the small producer the cost of regulation is almost prohibitive. We recognize these arguments have some validity and sympathize with the plight of the Commission and the small producer. But when it was suggested that legislation or administrative regulations be adopted relieving the small producer of these burdens and thereby reducing the work of the Commission, the offer was rejected even though the evidence showed that effective price control could be exercised if jurisdiction were retained over the 150 or so large producers who own something over 90 percent of the natural gas.

Another complaint by the producers is that the public-utility concept of ratemaking is not applicable to the production of natural gas, that the business is highly risky and the usual rate of public-utility return would not compensate them for the cost of exploring, drilling, finding, and producing gas, including the cost of drilling dry holes. We recognize the unusual characteristics inherent in the business. If the producers were able to make out a case that existing law will not permit them to realize a fair and reasonable rate of return, taking all factors into account, we could and would go along with any reasonable pricing formula that would permit them to earn a reasonable profit while at the same time protecting the consumer.

One of the principal thesis of the case for the proponents of this legislation is to permit the wellhead price of natural gas to reach levels competitive with other fuels. It is estimated this is a price of something over 20 cents per thousand cubic feet (M c. f.). In fact some witnesses were of the opinion that a 30-cent price would be a conservative estimate of the ultimate price level. The principal economic witness for the producers expressed the opinion that natural gas at double the 1953 price of about 10 cents per thousand cubic feet was a bargain.

The proven recoverable reserves of natural gas are estimated at 211 trillion cubic feet. It is estimated that on the basis of the present rate of consumption these reserves have a 23-year life. It is axiomatic that continued increases in the wellhead price will result in increasing the value of the reserves.

In this connection one industry witness [6] testified that the average

[6] Arthur K. Lee, United Cities Utilities, Co., Chicago, Ill.

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wellhead price of natural gas in the fields supplying the Chicago area had advanced from 8 to 16 cents per thousand cubic feet within a span of a few years. Assuming that the annual rate of consumption for the year 1954 would remain constant until the reserves had been exhausted the witness computed that if the 8 cent price increase remained in effect for the estimated life of the reserves it would mean a windfall of over $16 billion to the producers.

We have attached hereto as exhibit 5, a table showing the increased annual cost to the consumers by States, based on the 1953 utility sales of natural gas. This table shows that the total annual cost to the consumers, assuming a 5 cent increase per thousand cubic feet in field price, would be $268,833,500, a 10 cent increase $537,667,000 and a 15 cent increase $806,500,500.

Certainly it cannot be said that increases in the cost of gas will be of little consequence to the public even though on the basis of the added cost to the individual residential consumer they may only represent what appears to be a relatively small amount. The basic philosophy of regulation is the protection of consumers against exploitation. It is predicated on the daily saving of modest sums for the benefit of the many. This daily saving is important to the wage earner who must count his pennies in order to make both ends meet. To take those pennies away from him for the benefit of a comparative handful of producers is to disregard basic justice.

GENERAL ANALYSIS OF BILL

Briefly stated, the purpose of the bill is to exempt producers from any effective regulation under the Natural Gas Act. This exemption from regulation is accomplished in section 2 of the bill by defining the terms "transportation of natural gas in interstate commerce" and "sales in interstate commerce for resale." Under the definition transportation does not begin until after the gas has been delivered into the transportation facilities of the interstate pipeline, beyond the field or fields where produced. Sales are to be considered to be in interstate commerce only after transportation has commenced. Thus, by clear and concise language, the majority removes all authority which the Federal Power Commission has under the act to regulate the price and other business activities relating to the production of natural gas.

The scope of the definition is such that the exemption may be extended not only to independent producers but also to the production activities of the pipeline companies and to producing affiliates of the pipelines. In this latter case the present bill goes much further than the vetoed Kerr bill, which extended the exemption only to independent producers. However, it conforms to the Moore-Rizley bill which Congress refused to pass because, among other things, it exempted the production of pipeline companies from regulation.

The majority in committee contended that except as to the price of gas there is no intent in the law to exempt from regulation the production activities of pipelines or their producing affiliates under the Natural Gas Act. But they have not seen fit to explain their position in the majority report in spite of agreement to do so. We wish that we could agree with the majority's interpretation of the law, because the public interest demands effective supervision of all phases of the natural gas business. But it is a well-settled rule of statutory con-

struction that where language is clear, concise, and unambiguous the courts will not resort to congressional debates or other like legislative sources to determine meaning but will interpret the law as it is written. As we have previously stated, we are of the opinion the exemption provisions of this bill are clear, concise, and unambiguous. If the FPC is to be authorized to continue to regulate the production activities of pipeline companies and their producing affiliates the bill must be amended. Unless the exemption provisions are amended Congress may well find itself excusing the production activities of pipeline companies and their producing affiliates from the obligation to comply with the several sections of the act dealing with certificates of public convenience and necessity and prohibiting a natural gas company from abandoning service without permission of the Commission (sec. 7), provisions for uniform accounting procedures and reports (secs. 8 and 10), the section authorizing the fixing of depreciation rates (sec. 9) and other general police powers necessary to properly supervise their business in the public interest.

In place of the simple direct language of section 2 exempting production from regulation, section 3 which purports to protect the consumer, is complicated and indefinite. It provides a new and untried set of vague standards for the fixing of the price of natural gas at the source. These standards are in addition to and in conflict with existing regulatory provisions of the act which this proposed legislation does not change. Their legal meaning and interpretation are in doubt and it will be many years before the courts have settled the many questions that are bound to arise as to the meaning and effect of the proposed legislation. Section 3 does not provide any effective criteria and such semblance of protection as it may purport to give to the consumer will not stop the sharp increases in the price of natural gas at the wellhead.

Section 3 of the bill provides an indirect procedure whereby producers are wholly relieved of any responsibility with respect to the fixing of a just and reasonable price. In fact, they are legislatively given a "hunting license" to seek the highest price the market will bear. The section sets up a "reasonable market price" standard as the measure of cost which a pipeline company may charge in fixing its rate for the resale of natural gas. In determining the reasonable market price the Commission is to consider "among other things" whether such price has been competitively arrived at, the effect of the contract upon the assurance of supply and the reasonableness of the provisions as they relate to existing or future prices.

With respect to new or renegotiated contracts the procedure under section 3 is to require the Commission to make a finding as to the reasonableness of the price and then to allow the pipeline company to charge as an operating expense only such part of the contract price which does not exceed the reasonable market price.

The same procedure regarding prices is applied to increases in field prices based on escalation clauses in existing contracts, which a pipeline company seeks to pass on to the consumer (subsecs. (d) and (e)). These subsections include a provision that except as to "periodic fixed price" (step-up) and "tax escalator clauses" and after the Commission has made the necessary finding, the pipeline company is required to pay the producer only that portion of the increase based on an escalation clause which represents the reasonable market price. The

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producer must perform under his existing contract and cannot cancel it even though that price is less than the amount allowable thereunder and he is dissatisfied with the price allowed.

A pipeline company may request, or the Commission on its own motion may make an advance determination to decide whether the field price is a reasonable market price. Subsection (f) of section 3 is the section which specifically authorizes pipeline companies to charge the "reasonable market price" for gas which they or their affiliates produce.

Sponsors of the legislation refer to the "reasonable market price" as the "field price"; in other words, the best price obtainable in the field where the gas is produced. They defend the term on the ground that there is a balanced, competitive market in natural-gas fields which in the absence of regulation will provide reasonable and stable prices. This thesis presupposes a price controlled by the supply-demand relationship. It completely ignores the seller's market which has been developing for the last several years, as pipeline companies in their search for natural gas have bid up the price. The resource is exhaustible. The demand is increasing. New discoveries for 1954 did not keep pace with annual consumption. The picture for the future is clouded. There is no evidence whatsoever this seller's market will improve. Under these conditions it is evident the criteria of "competition" in the field furnishes an illusory standard as a basis for regulating prices. The other two criteria, namely, assurance of supply and reasonableness of the provisions of the contract, cannot be construed to put a brake on the upward trend of field prices set in a seller's market. On the contrary, these criteria properly considered actually give legislative sanction to the acceleration of the present rate of increase which characterizes the market.

A pertinent example of the total lack of competition is afforded by the experience of the Iroquois Gas Corp. in negotiating for additional supplies in the Sheridan field in Texas in November 1954. As shown by the record in Docket No. G–1969 before the Federal Power Commission the producers refused to quote prices and demanded that Iroquois, together with other customers, submit "blind bids." In order to get the gas Iroquois bid 16.5 cents per thousand cubic feet—a price then substantially above the market.

The shift to a seller's market was stressed by many industry witnesses engaged in the local distribution of gas. In the past several of them had supported legislation exempting producers because of the existence of real competition in the field. Under the present noncompetitive conditions these same experts oppose the instant legislation because it does not provide reasonable standards that will operate to fix a fair price for natural gas.

The majority report in analyzing the criteria of subsection (b) of section 3 and other comparable provisions to be considered in fixing the reasonable market price attempts to accord to the phrase "among other things" a specific definitive status that would protect the consumer. All of the factors the majority take into consideration relate to the quality of the gas, character of the field in which produced, the historic trend of prices, and incentives for exploration. The term as defined by the majority does not expressly or inferentially authorize the Commission to take into account the factors necessary to properly arrive at a just and reasonable price or to fix even the maximum price

in the various fields, authority which it now has under the Natural Gas Act.

The standard of "reasonable market price" is inflationary by definition. The trend of prices in new gas-purchase contracts has been sharply upward all over the United States. Consequently, new contracts are constantly being entered into at price levels substantially greater than prevailed 5 or 10 years ago. If the escalation clause in an old contract is brought before the Federal Power Commission for review as provided for in subsections (d) and (e) of section 3, the Commission would approve the stepup in price in the great majority of the cases. This is because the old contract price, even as increased by escalation, would still be equal to, or less than, the current prices in new contracts. To say the least, it would be very difficult for the Commission to prove that a new price, escalated up to the level of the most recent price contracts negotiated in the field, is not a "reasonable market price." Thus, the vaunted protection for consumers against the operation of the malignant favored-nations escalation clauses in existing contracts becomes totally illusory.

The fact is that the bill legislatively sanctions the use of all types of escalation clauses. None of them are prohibited. Under this bill the Commission would have no direct authority over them. Its power is limited solely to an advisory finding that the escalated price does not exceed the "reasonable market price."

Certainly if the sponsors of this bill desire to protect the consumer against these pernicious clauses, it would seem logical for them to so draft the law as to effectively prohibit the use of escalator clauses—clauses which the majority report recognizes must be effectively controlled if the consumer is to be protected "against unreasonable increases in pipeline rates as a result of the price increases due to the automatic operation of escalation clauses." As we have demonstrated, the present bill does not offer the consumer even the minimum of protection the majority say he is entitled to.

CONCLUSION

We subscribe to the dissenting reports of the members of the House Interstate and Foreign Commerce Committee. We join with them in the conclusion that the bill is not in the public interest and the price of natural gas will increase if this legislation is adopted. The bill should not be passed.

WARREN G. MAGNUSON,
JOHN O. PASTORE,
CHARLES E. POTTER.
WILLIAM A. PURTELL.

EXHIBIT 1

TRUMAN MESSAGE ON GAS VETO

I return herewith, without my approval, H. R. 1758, a bill to amend the Natural Gas Act approved June 21, 1938, as amended.

This bill would preclude the Federal Power Commission from regulating sales of natural gas to interstate pipeline companies, for resale in interstate commerce, by producers and gatherers who are not affiliated with the buyers. After careful analysis and full consideration, I believe that such an action would not be in the national interest.

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I believe that authority to regulate such sales is necessary in the public interest because of the inherent characteristics of the process of moving gas from the field to the consumer. Unlike purchasers of coal and oil, purchasers of natural gas cannot easily move from one producer to another in search of lower prices. Natural gas is transported to consumers by pipelines, and is distributed in a given consuming market by a single company. The pipeline companies, and in turn the consumers of natural gas, are bound to the producers and gatherers in a given field by the physical location of their pipelines, which represent large investments of funds, and cannot readily be moved to other fields in search of a better price.

SELLERS NOT UNITED

These characteristics of the natural-gas business impose natural limitations upon effective competition among sellers. Competition is further limited by the degree of concentration of ownership of natural-gas reserves. While there are a large number of producers and gatherers, a relatively small number of them own a substantial majority of the gas reserves. Furthermore, the demand for natural gas has been growing phenomenally in recent years, and its natual advantages as a fuel, coupled with its present price advantage, indicate that demand may soon be pressing hard upon total supplies.

Under these circumstances there is a clear possibility that competition will not be effective, at least in some cases, in holding prices to reasonable levels. Accordingly, to remove the authority to regulate, as this bill would do, does not seem to me to be wise public policy.

HAS FAITH IN COMMISSION

It is argued that regulation of sales of natural gas to pipeline companies would discourage producers and gatherers from selling this gas in interstate commerce, and would discourage exploration and development of new wells. This claim rests primarily on the assumption that the Federal Power Commission would apply standards of regulation which did not take account of the peculiar circumstances of natural-gas production—such as the cost of exploration and development, including the drilling of dry holes. I do not believe this assumption is well founded. On the contrary, I am confident that the Commission will apply standards properly suited to the special risks and circumstances of independent natural-gas producers and gatherers.

My confidence in this outcome is supported by the fact that, until recently, the Commission has not found it necessary to undertake to regulate the prices charged by independent gas producers and gatherers, although those prices have been advancing. It is only natural that prices have risen, since the interstate lines built during and since the war have offered a far wider market than existed previously and have resulted in more competition among buyers. This process of price adjustment will probably continue, and it is right that it should if held within reasonable limits.

SEES STRONG INCENTIVES

Accordingly, producers and gatherers are finding, and I am sure will continue to find, strong incentives to search out new sources of natural gas and to sell their gas in interstate commerce. I believe the production and sale of natural gas will continue to grow rapidly, to the benefit of consumers and of all the businessmen concerned with serving them. I see no danger to that growth in the continuance of the authority of the Federal Power Commission to regulate sales of gas to interstate pipelines.

The continuance of that authority will adequately protect the public interest by permitting the Commission to prevent unreasonable and excessive prices which would give large windfall profits to gas producers, at the expense of consumers, with no benefit to the Nation in terms of additional exploration and production. Such cases are few, if any, at the present time, but the authority to deal with them in the future clearly should not be dissipated.

Experience may demonstrate that some improvement of the existing statute may be desirable. I have no doubt that the Commission will operate reasonably and in the public interest in carrying out the present law, but I would have no objection to reasonable amendments if they are found to be needed.

To withdraw entirely from this field of regulation, however, impelled only by imaginary fears, and in the face of a record of accomplishment under the present law which is successful from the standpoint of consumer, distributor, carrier, and producer alike, would not be in the public interest. Accordingly, I am compelled to return this bill without my approval.

EXHIBIT 2

Natural gas reserves of certain large producers

Company	Natural gas reserves	
	As of—	Volume (trillion cubic feet)
Phillips Petroleum Co	Dec. 31, 1953	13.2
Union Producing Co	Oct. 31, 1954	[1] 4.0
Stanolind Oil & Gas Co	Dec. 31, 1953	9.9
Humble Oil & Refining Co	June 30, 1954	16.0
Magnolia Petroleum Co	Dec. 31, 1953	[1] 7.5
Shell Oil Co		[2]
Chicago Corp		[2]
Atlantic Refining Co	Dec. 31, 1953	2.2
Shamrock Oil & Gas Corp	Nov. 30, 1954	1.7
Skelly Oil Co	Jan. 1, 1953	2.3
Gulf Refining Co		[2]
Sun Oil Co		[2]
Gulf Oil Corp		[2]
Texas Co	Dec. 31, 1953	10.5
Carthage Corp. plant		[2]
Republic Natural Gas Co		[2]
Superior Oil Co		[2]
Cities Service Gas Producing Co	Dec. 31, 1953	[2]
Sunray Oil Corp	Jan. 1, 1953	1.5
Union Oil Co. of California	Dec. 31, 1953	[3] 2.1
Continental Oil Co	do	2.2
Southwest Gas Producing Co., Inc	do	[2]
Panoma Corp		[2]
La Gloria Corp		[2]
Pure Oil Co	[4]	3.7
Ohio Oil Co	1953	2.1
Western Natural Gas Co	May 31, 1952	1.4
Abercrombie, J. S. Co		[2]
Tide Water Associated Oil Co	Dec. 31, 1952	1.7
Sinclair Oil & Gas Co	Dec. 31, 1953	[1] 1.7
El Paso Natural Gas Co	Dec. 31, 1952	3.8
Panhandle Eastern Pipe Line Co	Dec. 31, 1954	3.5
Total		91.0

[1] Including affiliated companies.
[2] Data not available.
[3] 1.6 trillion cubic feet net.
[4] Not given.

Source: Federal Power Commission.

EXHIBIT 3 (A)

Statistics relative to independent producer rate filings, June 7, 1954, to May 1, 1955

	Number	Amount
Tax rate increases filed and allowed without suspension	1,810	$6,603,408
Other rate increases filed and allowed without suspension	513	11,635,278
Total rate increases filed and allowed without suspension	2,323	18,238,686
Rate increases suspended but later allowed without hearing	17	761,197
Rate increases suspended and later reduced and withdrawn	2	21,808
Rate increases suspended and pending [1]	91	10,754,893
Total rate increases suspended	110	11,537,898
Total rate increases filed	2,433	29,776,584
Total rate filings received	10,504	

[1] Covers 67 dockets.

Source: Federal Power Commission.

EXHIBIT 3 (B)

GAS RESERVES

Congressman Heselton, in the course of the hearings in respect to H. R. 4560 and H. R. 4675 stated it was his understanding that 30 companies owned gas reserves approximating 63 percent of the total proven reserves in the country. He inquired as to the accuracy of this statement and the attached tabulation was furnished Hon. J. Percy Priest, chairman of the Committee on Interstate and Foreign Commerce, House of Representatives, on March 30, by Chairman Kuykendall.

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As stated in the memorandum transmitting the tabulation:

"Information as to natural-gas reserves controlled by individual companies has not been compiled as far as the staff knows. Accordingly, the staff proceeded in its investigation as follows: A study of the gas purchased by pipeline companies from independent producers in the year 1953 discloses that 42 producers sold 70 percent of the gas purchased by the pipeline companies. An effort was then made to ascertain the reserves owned by the 30 largest sellers of gas to pipeline companies. In this connection a study was made of registration statements filed with the Securities and Exchange Commission, of annual reports to stockholders, Moody's Manual and stock reports of Standard & Poors Corp. The data shown in the attached tabulation was obtained as a result of this search.

"El Paso Natural Gas Co., not in the group of 42 mentioned above, is included in the tabulation because Congressman Heselton specifically referred to that company. In addition, Panhandle Eastern Pipe Line Co. is included because of the knowledge that that company controlled large gas reserves.

"The 19 companies for which information as to reserves was obtained controlled 91 trillion cubic feet of natural gas as of recent dates. This is 43 percent of the total reserves of 211.5 trillion cubic feet in the United States as of December 31, 1953, according to the American Gas Association."

Source: Federal Power Commission.

Basis for Commission Acceptance of Initial Rate Filings From Independent Producers

When on June 7, 1954, the Supreme Court held the Phillips Petroleum Co. to be subject to the Natural Gas Act (*Phillips Petroleum Company* v. *Wisconsin*, 347 U. S. 672), all independent producers similarly engaged in interstate sales of natural gas for resale or in the transportation of natural gas in interstate commerce were faced with the problem of complying with the act. Those subject to the act on June 7, 1954, were not made so by the Supreme Court decision in the Phillips case, but their sales and transportation fixed their responsibilities under the act.

One of the requirements is that such interstate sales may not be made without being in conformity with a filed rate schedule. The Commission, therefore, permitted independent producers to file their rate contracts, in lieu of schedules in tariff form, in order that such companies could comply with the terms of section 4 of the Natural Gas Act.

Source: Federal Power Commission.

Exhibit 4

United States Department of the Interior,
Bureau of Mines,
Washington 25, D. C., July 25, 1955.

Hon. John O. Pastore,
United States Senate,
Washington 25, D. C.

My Dear Senator Pastore: The attached tabulation confirms information given by telephone to Mr. William L. Kohler, of the staff of Senate Committee on Interstate and Foreign Commerce, on Friday, July 22. The sources of the information are as follows:

Number of wells drilled: The Oil and Gas Journal.

Additions to reserves of crude oil: Committee on petroleum reserves, American Petroleum Institute.

Production of crude oil and natural gas: United States Bureau of Mines.

Additions to reserves of natural gas: Committee on natural gas reserves, American Gas Association.

You may want to supplement the data in the table with the following information:

	1951	1952	1953	1954
Crude oil reserves, end of year (million barrels)	27,468	27,961	28,945	29,561
Natural gas reserves, end of year (billion cubic feet)	193,812	199,716	211,447	211,711

These figures will not reflect exactly the net changes in reserves indicated on the table as these figures are based on preliminary production data while the table shows actual production. The differences, however, are not significant.

The following information may also be helpful.

Exploratory wells completed, and total wells drilling

	Oil	Gas	Dry	Number drilling, end of period
1951				5,066
1952	1,564	356	9,117	4,974
1953	1,575	367	9,120	5,965
1954	1,598	399	9,283	5,368
1st 5 months:				
1954	626	133	3,571	5,664
1955	728	150	3,873	5,916

The outlook for drilling activity for the balance of 1955 appears favorable as the first 5 months have seen a rather sharp increase in the rate of well completion and in the number of wells being drilled. In both January and February of this year the number of wells completed was below that for the comparable months of 1954, but the 5-month figures show that this situation has been reversed.

Many factors tend to defer the effect of any action or condition that discourages drilling activity. Most leases of land for oil development require the drilling of exploratory wells within a specified time, and of development wells within a relatively very short time after oil is discovered. Company interest dictates that, when oil is discovered on an adjacent lease, their own property must be developed promptly to prevent oil from being drained from it. Furthermore, the large investment that is represented by a drilling rig makes it necessary that it be kept active to the maximum possible extent in order to avoid financial loss. Many other reasons could be cited, but those above are probably the principal ones.

If the Bureau of Mines can be of further assistance to you, please feel free to call on us at any time.

Sincerely yours,

H. J. BARTON,
Chief, Branch of Petroleum Economics.

Number of wells drilled, changes in reserves, and production of crude oil and natural gas in the United States, 1952–55

	1952	1953	1954	1st 5 months	
				1954	1955
Number of wells completed:					
Oil	23,466	25,762	29,773	12,284	12,945
Gas	3,255	3,806	3,977	1,491	1,337
Dry	17,677	18,449	19,175	7,485	8,011
Total	44,398	48,017	52,925	21,200	22,293
Additions to crude oil reserves (millions of barrels):					
Revisions and extensions	2,253	2,704	2,287	(1)	(1)
New discoveries	496	592	586	(1)	(1)
Total	2,749	3,296	2,873	(1)	(1)
Crude oil produced	2,290	2,357	2,316	973	1,028
Net additions to reserves	459	939	577	(1)	(1)
Additions to natural gas reserves (billion cubic feet):					
Revisions and extensions	8,934	13,371	4,632	(1)	(1)
New discoveries	5,411	7,082	4,967	(1)	(1)
Total	14,345	20,453	9,599	(1)	(1)
Net production of natural gas	8,862	9,207	[2] 9,427	[2] 2,419	[2] 2,672
Net additions to reserves	5,483	11,246	172	(1)	(1)

[1] Not available.
[2] Estimate.
[3] 1st quarter, estimated

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EXHIBIT 5

Effect of increased field prices by States based on 1953 utility sales of natural gas [1]

	Total sales (thousand cubic feet)	Annual cost of field price increases per thousand cubic feet		
		5 cents	10 cents	15 cents
Connecticut	4,260,000	$213,000	$426,000	$639,000
Massachusetts	15,660,000	783,000	1,566,000	2,349,000
New Hampshire	850,000	42,500	85,000	127,500
Rhode Island	580,000	29,000	58,000	87,000
New Jersey	13,900,000	695,000	1,390,000	2,085,000
New York	116,750,000	5,837,500	11,675,000	17,512,500
Pennsylvania	275,340,000	13,767,000	27,534,000	41,301,000
Illinois	232,890,000	11,644,500	23,289,000	34,933,500
Indiana	69,350,000	3,467,500	6,935,000	10,402,500
Michigan	167,460,000	8,373,000	16,746,000	25,119,000
Ohio	431,890,000	21,594,500	43,189,000	64,783,500
Wisconsin	34,410,000	1,720,500	3,441,000	5,161,500
Iowa	71,820,000	3,591,000	7,182,000	10,773,000
Kansas	222,240,000	11,112,000	22,224,000	33,336,000
Minnesota	91,220,000	4,561,000	9,122,000	13,683,000
Missouri	170,500,000	8,525,000	17,050,000	25,575,000
Nebraska	78,330,000	3,916,500	7,833,000	11,749,500
North Dakota	3,650,000	182,500	365,000	547,500
South Dakota	14,070,000	703,500	1,407,000	2,110,500
District of Columbia	13,460,000	673,000	1,346,000	2,019,000
Florida	19,190,000	959,500	1,919,000	2,878,500
Georgia	119,440,000	5,972,000	11,944,000	17,916,000
Maryland	29,850,000	1,492,500	2,985,000	4,477,500
North Carolina	4,390,000	219,500	439,000	658,500
South Carolina	7,790,000	389,500	779,000	1,168,500
Virginia	28,620,000	1,431,000	2,862,000	4,293,000
West Virginia	105,970,000	5,298,500	10,597,000	15,895,500
Alabama	131,920,000	6,596,000	13,192,000	19,788,000
Kentucky	69,510,000	3,475,500	6,951,000	10,426,500
Mississippi	94,780,000	4,739,000	9,478,000	14,217,000
Tennessee	101,750,000	5,087,500	10,175,000	15,262,500
Arkansas	145,750,000	7,287,500	14,575,000	21,862,500
Louisiana	364,530,000	18,226,500	36,453,000	54,679,500
Oklahoma	173,820,000	8,691,000	17,382,000	26,073,000
Texas	890,990,000	44,549,500	89,099,000	133,648,500
Arizona	63,810,000	3,190,500	6,381,000	9,571,500
Colorado	109,500,000	5,475,000	10,950,000	16,425,000
Montana	36,330,000	1,816,500	3,633,000	5,449,500
New Mexico	63,800,000	3,190,000	6,380,000	9,570,000
Utah	36,050,000	1,802,500	3,605,000	5,407,500
Wyoming	20,270,000	1,013,500	2,027,000	3,040,500
California	672,740,000	33,637,000	67,274,000	100,911,000
United States	5,376,670,000	268,833,500	537,667,000	806,500,500

[1] The following States had no utility natural gas sales in 1953: Maine, Vermont, Delaware, Idaho, Nevada, Oregon, Washington.

Source: Federal Power Commission.

84TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 992

TO AMEND THE NATURAL GAS ACT, AS AMENDED

JUNE 28, 1955.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed with illustrations

Mr. PRIEST, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 6645]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 6645) to amend the Natural Gas Act, as amended, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The committee held extensive hearings on this legislation during March, April, and May of this year—the printed record of the hearings running to almost 2,000 pages.

The hearings were held on H. R. 4560 and certain other bills, and during the executive sessions of the committee H. R. 4560 was used as the basis for discussion and action. However, due to the adoption of a number of amendments a new bill incorporating these amendments (H. R. 6645) was introduced, and this is the bill here reported to the House without amendment.

The report of the Federal Power Commission on H. R. 4560 is printed in appendix III of this report.

The specific changes which the bill proposes to the text of the Natural Gas Act are shown in appendix II.

BRIEF STATEMENT OF THE PURPOSES OF THE BILL

This bill proposes amendments to the Natural Gas Act which fall into the following categories:

First, the bill proposes to exempt producers of natural gas from public utility regulation as natural-gas companies, and thus restore the law to what it had been generally believed to be for 16 years prior to the Supreme Court's decision of June 7, 1954, in the case of *Phillips Petroleum Co.* v. *Wisconsin* (347 U. S. 672). (The majority and dissenting opinions in the *Phillips* case are printed in appendix IV of this report.)

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Second, the bill contains provisions to protect consumers from excessive rate increases which might result in certain instances by reason of such exemption of producers from regulation. Briefly, these provisions give the Federal Power Commission a new authority to be exercised in case a natural-gas company proposes a rate increase based on an increase in the price it pays for natural gas. The Commission then would determine whether the increased price the natural-gas company pays for the gas (except a price increased through the operation of a "step-up" or "tax-increase" clause in a contract entered into before this legislation is enacted) is in excess of the "reasonable market price" of the gas. Amounts paid in excess of the "reasonable market price" would not be allowed as an operating expense of the natural-gas company for rate purposes, and thus could not be passed on to consumers.

Third, the bill includes a provision which would protect the financial soundness of natural-gas companies by relieving any such company of the obligation, under escalator clauses in existing contracts, to pay an amount in excess of the reasonable market price, and by providing that the contract may not be terminated because of the fact that the purchaser cannot be required to pay more.

Fourth, the bill provides for use of the "reasonable market price" standard in deciding applications for certificates of public convenience and necessity and in fixing the rates charged by a natural-gas company for natural gas which it produces itself or which it buys from an affiliate.

Fifth, the bill amends the definition of "interstate commerce" in the Natural Gas Act so that such term would include foreign commerce insofar as such commerce takes place within the United States.

These and the related provisions of the bill, and the reasons for recommending their enactment, are explained below.

EXEMPTING PRODUCERS OF NATURAL GAS FROM REGULATION AS NATURAL-GAS COMPANIES

Introductory

This legislation is concerned with the jurisdiction and authority of the Federal Power Commission under the Natural Gas Act of June 21, 1938—with particular reference to the status thereunder of the producers of natural gas who sell to the interstate natural-gas pipeline companies, often referred to as the "long lines", which are subject to the act.

The Commission's basic jurisdiction under the act is prescribed in section 1 (b), as follows:

> (b) The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

Any company or other person engaged in transportation or sales of natural gas to which the act applies is called a "natural-gas company" under the act.

It will be noted that the only sales of natural gas which are subject to the Commission's jurisdiction are sales in interstate commerce *for resale*, sometimes referred to as "wholesale" sales.

Of particular importance to an understanding of this bill is the last part of section 1 (b), which provides that the act—

shall not apply to * * * the production or gathering of natural gas.

We think it may be fairly said that from the time of the enactment of the Natural Gas Act until the Supreme Court's decision in the *Phillips* case—a period of approximately 16 years—it was generally believed that Congress, in enacting the Natural Gas Act, intended that sales of natural gas by producers should be regarded as a part of the production and gathering operation and thus, because of the exemption of production and gathering quoted above, were not to be subject to regulation under the act.

This was the view expressed by this committee in 1947 (H. Rept. No. 800, 80th Cong.) when it favorably reported to the House a bill (H. R. 4051) proposing a number of amendments to the Natural Gas Act, and again in 1949 (H. Rept. No. 1140, 81st Cong.), when it favorably reported to the House a bill (H. R. 1758) intended to make it clear beyond doubt that the Natural Gas Act did not provide for the regulation of sales of independent producers.

That this has been the consistent view of the Federal Power Commission, whose duty it is to administer the Natural Gas Act, is beyond question.

With regard to this question of the status of producers and the events culminating in the *Phillips* case it is appropriate to quote from the favorable report of the Commission to this committee, dated March 21, 1955, on the bill (H. R. 4560) on which this committee had its hearings:

* * * * * * *

Because of its close association with the legislative considerations and events preceding the enactment of the Natural Gas Act and its singular interest in and relationship to the act thereafter, this Commission has felt itself peculiarly able to interpret the intent of Congress with respect thereto. Thus, when in about 2 years after the passage of the act there was presented to it for decision the first case involving the issue, namely *Columbian Fuel Corporation* (Docket No. G–143, June 29, 1940, 2 F. P. C. 200), the Commission, with one member dissenting, had no difficulty in choosing between an interpretation of its authority based upon its so recent knowledge and experience and a purely legalistic rationalization of a much broader jurisdiction. It was then, and it continued to be, the Commission's conviction that it was not the intention of the Congress to subject to regulation under the Natural Gas Act all persons whose only sales of natural gas in interstate commerce are made during, or as an incident to and immediately upon completion of, such person's production and gathering of said natural gas and who are not otherwise subject to the jurisdiction of the Commission.

It was then, and it continued to be, the opinion of the Commission that in the act Congress had carefully and deliberately restricted the powers of the Commission so as to prohibit the exercise of authority over the production and gathering of natural gas including sales of gas made as an incident to such production and gathering. Even then we recognized that, because of the interrelationship between the natural gas and oil industries, to make regulation of producers and gatherers of natural gas effective would require statutory authority of much wider scope than that afforded by the Natural Gas Act. The course of the Commission thereafter has been completely consistent with that view.

However, because of apparent doubts in the minds of many as to the position of the courts on the question, in 1947, following the Supreme Court's decision in the *Interstate Natural Gas Company, Inc.* (331 U. S. 682), the Commission unanimously, Commissioners Draper, Olds, Smith, and Wimberly, urged the enactment of legislation, H. R. 4099, the so-called Priest bill, in the 80th Congress to reaffirm what to it was the clear congressional intent. Soon, thereafter, the Commission reiterated its position in its order No. 139. Although that order was subsequently revoked, no decision of the Commission inconsistent with its position in the Columbian Fuel case, supra., has ever been issued. Thus, when the question was

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again presented to us *In the Matter of Phillips Petroleum Company* (10 F. P. C. 246 (1951)), having found that Phillips was an independent producer of natural gas, that the sales involved were sales in interstate commerce of natural gas for resale for ultimate public consumption, and that such sales were made after the completion of production and gathering, but that they were incidental to production and gathering, the Commission found and concluded that such sales were excluded from the operation of the Natural Gas Act.

But, as you are aware, upon review the United States Supreme Court refused to concur in the Commission's conclusion. That Court's decision in the Phillips case, supra, rendered on June 7, 1954, held that the Federal Power Commission must exercise jurisdiction over companies, even though not otherwise natural gas companies, who are engaged in the sale in interstate commerce of natural gas for resale made after the completion of production and gathering, whether or not incidental thereto. In the light of that decision, it has become the duty of the Federal Power Commission to include such independent producers within the scope of its regulation.

* * * * * * *

Effect of the Phillips decision

The Natural Gas Act was obviously conceived to provide for the regulation of companies engaged in activities of a public utility character. It provides for regulatory devices typically used in regulating public utilities, such as the following: Requirement of certificates of public convenience and necessity; filing of schedules of rates and charges; extension or improvement of transportation facilities; interconnection of facilities; abandonment of service; keeping of uniform systems of accounts, records, and memoranda; submission to inspection of accounts, records, and memoranda; determination of depreciation rates; duty to make reports; and the making of periodic and special reports.

The result of the *Phillips* case, therefore, is that thousands of producers of natural gas who do not have the characteristics of public utilities—the number has been estimated to be between four and eight thousand—suddenly became subject to public utility regulation under the act—the same regulation imposed on natural-gas pipeline companies which buy and sell millions of cubic feet of natural gas and transport it thousands of miles to consuming areas in distant States. Many of these producers are merely farmers who happen to have natural gas under their land.

Furthermore, the Supreme Court's decision in the *Phillips* case resulted in the imposition of an enormous administrative burden on the Federal Power Commission. In its report to this committee on H. R. 4560 the Commission said:

Consequently, when we received the mandate from the Court in the *Phillips* case, we issued an order prescribing regulations governing the filing of rate schedules and applications for certificates of public convenience and necessity by producers and gatherers of natural gas which sell gas in interstate commerce for resale and since those rules have become effective we have undertaken to bring under our regulation the thousands of companies which are so engaged. As of February 28, 1955, 5,673 certificate applications and 10,042 rate filings had been submitted to the Commission by so-called independent producers.

Our experience with the application of the provisions of the Natural Gas Act to such producers and gatherers has demonstrated the difficulties which are involved. Many suits have been filed to test the validity of such rules, and it is clear that the Commission may expect to be involved for many years in legal proceedings on those and numerous other questions which have arisen and which will arise. However, we have not yet reached the point of really coming to grips with all the detailed problems which are involved.

Public interest does not require regulation of producers as public utilities

There is good ground for the conclusion that the course of events since the enactment of the Natural Gas Act has confirmed the soundness of the view held when that act was originally enacted, that competitive conditions in the gas-producing areas of the country make unnecessary the regulation of producers as public utilities.

The general level of field prices for natural gas has risen over the years, of course, just as prices generally have risen. However, it appears obvious, when one considers the facts, that the forces of competition have kept natural-gas prices from getting out of line.

The natural-gas industry has grown phenomenally since the Natural Gas Act was enacted—it has become one of the largest industries in the country. There is still a large unsatisfied consumer demand for natural gas in the United States, and consumers have been and are so anxious to get this efficient, clean, and convenient fuel that little question has been raised as to what it would cost.

In spite of this, natural gas—much of which is sent thousands of miles to reach the large consumer areas—is generally available to the consumer at a lower cost than the principal competing fuels, coal and oil.

It is very important, in considering whether there is justification for Federal regulation of the prices at which producers sell natural gas to natural-gas companies, to bear in mind that on the average only about 10 percent of the price the consumer has to pay for the gas is attributable to the price which the producer receives for the gas—the remainder being due principally to the cost of financing and operating the transportation and distribution systems and facilities by means of which the gas is delivered to the consumer.

This situation is graphically portrayed in the examples contained in appendix I, which show for representative cities the cost of gas to the ultimate consumer and the proportion of that cost which is attributable to local distribution, to the transportation of gas by the pipelines, and the price to producers in the field.

The exercise of Federal jurisdiction for the purpose of regulating producers of natural gas as public utilities constitutes, it is believed, an extension of Federal authority which is without precedent under our American system of free enterprise.

Producers of natural gas should be treated as what they are, namely, producers of a commodity like coal, oil, or copper, not as public utilities. On this basis they should be exempted as is proposed in this bill.

In 1954, President Eisenhower appointed the Advisory Committee on Energy Supplies and Resources Policy (commonly called the Cabinet Committee). With respect to the natural-gas industry, the Committee was directed to consider "what degree and kind of public regulation is appropriate to the present situation and future outlook." That Committee reported to the President on February 26, 1955, with respect to natural gas, that "the Federal Government should not control the production, gathering, processing, or sale of natural gas prior to its entry into an interstate transmission line," and that the past tripartite arrangement of regulation of production and conservation by State commissions, of interstate transmission by the Federal Power Commission, and of local distribution by State public utility commissions, provided a complete cycle of appropriate regulation.

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The pertinent part of the recommendation of the Cabinet Committee is as follows:

We believe the problem of natural gas regulation should be approached from the viewpoint of assuring adequate supplies and the discovery and development of additional reserves to support such supplies, in the interests of national defense, an expanding domestic economy, and reasonable prices to consumers.

To secure these objectives, it is essential to give due consideration to (1) the operations known as the production of natural gas, (2) the transportation of gas in interstate transmission lines, and (3) the distribution of gas in municipalities. Individual companies may engage in more than one of these activities. Each operation of such companies should be treated by like criteria according to its appropriate industry function.

In the production of natural gas it is important that sound conservation practices be continued. This area of conservation management is under the jurisdiction of State conservation commissions. In the interest of a sound fuels policy and the protection of the national defense and consumer interests by assuring such a continued exploration for and development of adequate reserves as to provide an adequate supply of natural gas, we believe the Federal Government should not control the production, gathering, processing, or sale of natural gas prior to its entry into an interstate transmission line.

The interstate transmission of natural gas by the interstate transmission lines and the subsequent sale of such gas for resale is a public utility function and should be under the regulation of the Federal Power Commission. In considering the certification of new lines and applications for increased rates based on new or renegotiated purchase contracts, the Commission should consider, in order to provide protection for the consumer, not only the assurance of supply but also whether the contract prices of the natural gas which the applicant has contracted to buy are competitively arrived at and represent the reasonable market field price, giving due consideration, in the interest of competition, to the reasonableness and appropriateness of contract provisions as they relate to existing or future market field prices.

The several States or their political subdivisions should continue to provide the public utility regulation of distributing companies in accordance with usual utility practices.

Thus the complete cycle of natural gas production, transmission, and utilization will be appropriately regulated; the production and conservation of natural gas by the State conservation commissions; the interstate transmission of natural gas by the Federal Power Commission; and the distribution by the local public utility commissions.

Also, as has been indicated, the Federal Power Commission favors amending the Natural Gas Act so as to exempt producers from regulation thereunder. In its report on H. R. 4560 it said:

* * * It is the considered opinion of the majority of this Commission that legislation should be enacted which will exempt from the operations of the Natural Gas Act independent producers and gatherers of natural gas who sell gas at wholesale to pipeline companies engaged in the transportation and sale in interstate commerce of natural gas for resale, but who do not themselves engage in the interstate transportation or subsequent sale of such gas.

It is our understanding that H. R. 4560 and H. R. 4675 are intended to accomplish that purpose, and upon that basis we recommend passage of such legislation. We support this proposed legislation because we firmly believe that such legislation will in the long run result in the greatest good to the largest number of people of this country.

The provisions of the bill exempting producers

For the foregoing reasons, the bill here reported, in section 2, makes amendments to section 2 of the Natural Gas Act which would have the effect of exempting producers from regulation under the act as natural-gas companies if they are not engaged in other activities which would bring them under the act.

This is accomplished by adding to section 2 of the act a definition of the term "transportation of natural gas in interstate commerce" and a definition of the term "sale in interstate commerce of natural gas for resale."

The two new definitions read as follows:

(10) "Transportation of natural gas in interstate commerce" means only such transportation of natural gas in interstate commerce as occurs after the completion in or within the vicinity of the field or fields where produced of all production, gathering, processing, treating, compressing and delivering of such natural gas into the transportation facilities of a person engaged in transporting, in such transportation facilities, natural gas in interstate commerce beyond the vicinity of the field or fields where produced.

(11) "Sale in interstate commerce of natural gas for resale" means only such sale in interstate commerce of natural gas for resale as occurs after the commencement of the transportation of such natural gas in interstate commerce as defined in paragraph (10), but does not include any sale which occurs in or within the vicinity of the field or fields where produced at or prior to the commencement of such transportation in interstate commerce of the natural gas.

These are the two terms which are used in section 1 (b) of the act to describe the matters over which the Commission has jurisdiction. Thus, a company or individual will not be a natural-gas company unless engaged in the transportation in interstate commerce, or the sales in interstate commerce for resale, covered by such definitions.

PROTECTION OF CONSUMERS

While, in accordance with the above recommendation of the Cabinet Committee and the Federal Power Commission, the bill provides for the described exemption from regulation of producers of natural gas, also in accordance with the Cabinet Committee's recommendation the bill specifically spells out certain particulars by which it is intended that the Commission shall provide protection for consumers of natural gas in the matter of reasonable rates.

Fears were expressed in the hearings that if there is no regulation of the prices charged by producers there will be virtually no check upon the prices which consumers will have to pay for natural gas in the future.

The committee has given earnest consideration to this matter, because everyone agrees that consumers should not be subjected to unreasonable price increases.

The bill (H. R. 4560) on which the committee held hearings contained certain provisions which had been thought adequate for the protection of consumers. Furthermore, as has been said above, it would seem that there is sufficient competition between the thousands of producers of natural gas to insure that it would be exceptional, rather than usual, for prices to go above reasonable levels. To make doubly sure that protection is afforded against unreasonable price rises, the bill here being reported contains not only the provisions which were in H. R. 4560, with clarifications, but also additional provisions to give further assurance to consumers of natural gas.

These provisions are contained in proposed new subsections (b), (c), (d), and (e) which section 3 of the bill would add to section 5 of the Natural Gas Act. These subsections are explained below:

New or renegotiated contracts

As one means of preventing unwarranted increases in the prices charged by producers, it is provided in the new subsection (b) that when the Commission considers a request for a rate increase made by a natural-gas company justification for which lies in the increased price the company must pay for gas under a new or renegotiated contract, it shall not allow the company to charge as an operating

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expense for the gas more than the reasonable market price thereof "at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced." It is the exceptional case, of course, where a natural-gas company would be able or willing to pay any price it could not charge as an operating expense. In this setting the importance of the meaning of the term "reasonable market price" is obvious; and for that reason the committee's understanding of its meaning is discussed at some length later in this report.

Predetermination procedure

The committee feared that a hardship might result if a natural-gas company had to enter into a contract for natural gas without knowing what might be determined in a subsequent rate case to be the reasonable market price for the gas. The committee has therefore provided in the new subsection (c), with respect to new or renegotiated contracts, that, even though no rate increase is then requested, the natural-gas company may obtain a determination from the Commission, as to whether the prices to be paid under the contract exceed the reasonable market price. The Commission also could make the determination on its own initiative.

Escalation clauses in existing contracts

Having dealt with the major problem of new or renegotiated contracts, the committee applied the same reasoning to the problem presented by existing contracts.

This problem arises because of certain provisions, commonly known as "escalation" clauses, which have become prevalent in recent years in contracts for the sale of natural gas in the field. Contracts between producers and natural-gas companies are usually long-term contracts, and escalation clauses have afforded a means by which producers have been able to avoid having to accept a single predetermined price throughout the entire life of the contract.

According to testimony presented to the committee in the hearings, the various types of escalation clauses are principally the following:

1. The two-party favored-nation clause: Under this clause, the specified price in a long-term fixed contract is increased in the event the buying pipeline company shall pay a higher price to another producer for gas in the same field or in any area specified in the contract.

2. The third-party favored-nation clause: Under this clause, the price is increased in the event an unrelated third party shall pay a higher price to another producer for gas in the same field or in an area specified in the contract.

3. Escalation clauses known as the price redetermination clause, the price-renegotiation clause, or the better-market clause: Under each of these clauses, the price is increased in the event the average of the 2 or 3 highest prices which are paid by pipelines in a given area shall exceed the price specified in the contract.

4. The spiral escalator clause: Under this clause, the price is increased in the event the resale rates of the pipeline company shall be increased.

5. The step-up clause: Under this clause the price under the contract will increase by specific amounts at definite dates in the future.

6. The tax-increase clause: Under this clause the pipeline company agrees to reimburse the producer who sells the gas for increase in taxes levied on the seller after a specified date.

Many witnesses appearing before the committee, particularly those representing distributing interests and consumer areas, maintained that escalation clauses in existing contracts, unless their operation is controlled in some effective manner, could result in very large increases in the cost of gas to consumers—particularly in view of the fact that a contract for natural gas usually runs for 20 years or more, and a large proportion of the contracts presently in effect were entered into in recent years.

It is provided, therefore, in the new subsection (d), that where a request for a rate increase is based on a price increase resulting from the operation of an escalation clause (as defined in the bill) in an existing contract the Commission may not consider as an operating expense for the purchase of such natural gas any part of the increase in price which results in a price in excess of the reasonable market price thereof.

The bill makes this treatment applicable to all escalation clauses except the so-called step-up and tax-increase clauses. It was generally agreed by witnesses who appeared before the committee that these types of escalation clauses were not seriously objectionable, and it is apparent that they serve a useful business purpose.

Pipelines relieved from paying price in excess of reasonable market price

Having decided on the treatment described above for proposed rate increases based on escalation clauses in existing contracts, it seemed apparent to the committee that it would be inequitable for the pipeline company to be bound, under its contract with the producer, to pay a price for the natural gas higher than the price it is permitted to include as an operating expense.

Therefore, the new subsection (e), which section 3 of the bill would add to section 5 of the act, would relieve the natural-gas company of the obligation to pay any part of the increase in price which results in a price in excess of the reasonable market price. It would follow, of course, that under such circumstances the producer could not demand or receive more than the natural-gas company is obligated to pay. It should be noted that this provision does not declare the contract void, or voidable. It merely has the effect of altering the price provided in the contract; the rest of the contract stays in effect according to its terms. Under this provision the seller would be precluded from terminating the contract notwithstanding the fact that the purchaser cannot be required to pay the escalated price that would be due except for the operation of this subsection. This is necessary to insure that the natural-gas company will not be denied the gas which it contracted for to meet the requirements of its customers.

PIPELINE-PRODUCED GAS TREATED IN SAME MANNER AS PURCHASED GAS

Under the new subsection (f) which would be added to section 5 of the act by section 3 of the bill, the Commission, for rate purposes, would treat gas produced by a natural-gas pipeline company or pur-

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chased by it from an affiliate, on the same basis as it treats gas purchased in an arm's-length transaction from a nonaffiliate.

It is provided that for gas which it produces itself it will be allowed, as an operating expense, the reasonable market price of the gas, and for gas which it buys from an affiliate it shall be allowed, as an operating expense, the amount paid to such affiliate up to but not in excess of the reasonable market price.

In the process of ratemaking, the Commission, prior to its decision of April 1954, in the matter of the Panhandle Eastern Pipe Line Co., had treated all producing facilities which were owned by a pipeline company in the same manner as its transportation facilities, namely, as part of the net investment rate base—the company being allowed to earn a reasonable return on such rate base. That treatment resulted in discrimination between the treatment of gas produced by the pipeline, or purchased from an affiliate, as against the treatment accorded gas purchased by the pipeline.

The Commission's earlier procedures yielded incongruous results in the field which are well described by Mr. Justice Jackson in *Colorado Interstate Gas Co.* v. *Federal Power Commission* (324 U. S. 581, 610, 611):

> To let rate-base figures compiled on any of the conventional theories of ratemaking govern a rate for natural gas seems to me little better than to draw figures out of a hat. These cases confirm and strengthen me in the view I stated in the Hope case that the entire rate-base method should be rejected in pricing natural gas, though it might be used to determine transportation costs. These cases vividly demonstrate the delirious results produced by the rate-base method. These orders in some instances result in three different prices for gas from the same well. The regulated company is a part owner, an unregulated company is a part owner, and the landowner has a royalty share of the production from certain wells. The regulated company buys all of the gas for its interstate business. It is allowed to pay as operating expenses an unregulated contract price for its coowner's share and a different unregulated contract price for the royalty owner's share but for its own share it is allowed substantially less than either. Any method of ratemaking by which *an identical product from a single well, going to the same consumers, has three prices* depending on who owns it does not make sense to me.
>
> These cases furnish another example of the capricious results of the rate-base method in this kind of case. The Commission has put 5 of the most important leaseholds, containing approximately 47,000 acres, in the rate base at $4,244.24, something under 10 cents per acre. Three such leases are put in the rate base at zero. This is because original cost was used, and these were bought before discovery of gas thereon. The company which took the high risk of wildcat exploration is thus allowed a return of 6½ percent on nothing for the 3 leases and a return of less than $300 a year on the others. Their present market value is shown by testimony to be over $3 million.
>
> I cannot fairly say that the Commission exceeded its jurisdiction in obtaining this evidence and making these calculations even though the evidence related to production and gathering of gas. But I do think it is a fantastic method of fixing a "just and reasonable" price for gas. [Italics supplied.]

As a consequence of the Commission's past practices, the amount of gas produced by the natural-gas pipeline companies declined proportionately to that which they purchased. In 1940, 8 major pipelines produced more than 47 percent of the gas they transported and sold, whereas in 1952 only 18½ percent of total requirements were produced by 15 major systems then operating in interstate commerce. Many pipelines disposed of their gas properties, and others did not undertake to enter into the ownership or operation of gas-producing properties and facilities.

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In proposing that natural gas produced by a natural-gas company or one of its affiliates be treated as a commodity, in contradistinction to its being considered as part of the net investment rate base and accorded the utility rate-base approach, the committee action is in conformity with the opinion advanced during the hearings by Commission Chairman Kuykendall:

> We believe that the proposed legislation * * * would result in equal treatment of producers, would encourage the ownership and operation by pipeline companies of their own producing and gathering properties, and would definitely and conclusively contribute to the soundness and the security of the sources of gas supply, and the maintenance of adequate service. Those results would, inevitably, redound to the benefit of the domestic, as well as other customers, and, it is our belief, would achieve in the long run lower rates for natural gas. While we are interested in reasonable rates, we must be equally concerned with the financial stability of the utilities under our jurisdiction, the safety of the investments which have been made in them, and, of equal or greater importance, the continued maintenance of adequate gas service to all of the ultimate consumers who have invested many millions of dollars in gas furnaces and other gas-using equipment. Residential, commercial, and industrial consumers throughout the United States have come to rely increasingly upon this premium fuel, which in 1920 provided less than 4 percent of our total energy requirements, as compared with over 23 percent in 1953.

In the Panhandle Eastern case, decided by the Federal Power Commission in April 1954, the Commission decided that its previous ratemaking procedures with respect to pipeline company-produced gas had been unjustified since in many cases they resulted in the allowance of little or nothing for the gas produced by the pipeline company. The Commission also noted with concern that no new major pipeline which was certificated since the Commission's previous ratemaking procedures in such cases were first established—including some of the largest systems serving enormous new markets—produces any significant portion of its total supply; and further that the ratio of pipeline produced gas to total gas transported and sold in interstate commerce has declined markedly.

The committee believes, and the Commission stated in the Panhandle Eastern case, that the interest of the public definitely lies in the direction of natural gas production by pipeline systems themselves, as distinguished from their complete dependence for gas supply upon purchases from other producers. Among the reasons for this is that such production by pipelines strengthens their bargaining position in negotiating gas purchase contracts with independent producers and by utilizing their own production to take the swings of pipeline-throughput in response to seasonal and other fluctuation of consumer demand, such pipeline systems are able to take their purchased gas at relatively uniform volumes, at high load factor. They thereby generally qualify for more favorable gas purchase prices.

The Federal Power Commission has asserted that if there is to be natural-gas exploration, development, and production by pipeline systems themselves—with resultant benefits to the public—it follows that this can only result from regulatory policies which are designed to encourage, rather than to penalize, such activities.

The new subsection (f) grants the same treatment to pipeline producers as to independent producers, namely, the allowance of a reasonable market price for the gas, and thereby will encourage the pipelines to expand their production and exploration activities. The

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net result of this policy will be better service at lower cost to the consuming public.

There is apt precedent in the Renegotiation Act of 1943, an act which in extended or revised form has continued down to today, for the treatment hereby accorded the gas produced and subsequently transported in interstate commerce by the natural-gas company itself.

In that act, involving the renegotiation of contracts for military procurement with the view of recapturing excessive profits, the various boards in determining the profits of an integrated company in the extractive industries included in expenses the market price, rather than the cost, of the raw material at its first extractive stage. Under the act, contracts for products of a mine, or oil or gas well, at the first form or stage in which they were customarily sold, or in which they had an established market, were exempt from renegotiation. Where the company produced the property itself the act provided that, in determining the costs of the company, the amount it actually cost the company to produce the product should not be considered, but that instead there would be allowed as an item of cost an amount equal to what the product could have been purchased for in the first form or state in which it had an established market. For example, a producer of steel products had its renegotiated contract price with the Government and its profit determined after an expense allowance was made for the pig iron which the producer itself made and included in the ultimate product, equivalent to the "market price" for the pig iron, rather than the actual cost of pig iron in that producer's own furnaces. The same was true of oil and gas.

MEANING OF THE TERM "REASONABLE MARKET PRICE"

Since "reasonable market price" will be applied as a yardstick or standard to determine what part of the price to be paid for natural gas by a pipeline company may be treated as an operating expense when that company applies for a rate increase, the meaning of this term is of obvious importance.

Basically, the term "reasonable market price" is used because of the committee's belief that the Commission should treat natural gas as a commodity in fixing the rates of pipeline companies, but it should be understood that the reasonable market price is not the price of the last sale, nor is it the highest price, the weighted highest price, the average field price, or other price arrived at by the mechanical application of a single criterion. Instead, it is a price which the Commission, exercising its judgment and discretion in weighing a number of relevant factors, determines is the reasonable market price.

This treatment of natural gas as a commodity is to be distinguished from the original cost rate-base approach which the Commission has used in connection with the pipeline transportation functions.[1] Thus,

[1] Distinguished by Mr. Justice Jackson as follows:

"Hope's business has two components of quite divergent character. One, while not a conventional common carrier undertaking, is essentially a transportation enterprise consisting of conveying gas from where it is produced to points of delivery to the buyer. This is a relatively routine operation not differing substantially from many other utility operations. The service is produced by an investment in compression and transmission facilities. Its risks are those of investing in a tested means of conveying a discovered supply of gas to a known market * * *

"The other part of the business—to reduce to possession an adequate supply of natural gas—is of opposite character being more erratic and irregular and unpredictible in relation to investment than any phase of any other utility business. A thousand feet of gas captured and severed from real estate for delivery to consumers is recognized under our law as property of much the same nature as a ton of coal, a barrel of oil, or a yard of sand * * * (*Hope Natural Gas*, 320 U. S. 59, 647.)

the concept of "reasonable market price" differs from that of "just and reasonable rate" which the Commission is directed to apply under section 5 of the Natural Gas Act for purposes of rates which the interstate pipelines charge distributing companies.

The term "market price" has, of course, a definite and well-established meaning in law—it is defined as

> the actual price at which the given commodity is currently sold, or has recently been sold, in the open market, that is, not at a forced sale, but in the usual and ordinary course of trade and competition, between sellers and buyers equally free to bargain, as established by records of late sales (Black's Law Dictionary, "Market Price", also quoted in *Wall* v. *United Gas Public Service Co.*, 152 So. 561, 563; 178 La. 908).

If there is no market price at the place of delivery, it is proper to look at the market price of the same commodity in the general area, considering the cost of transportation between the points (*South Gardiner Lumber Co.* v. *Bradstreet*, 53 A. 1110, 1111; 97 Me. 165).

Thus, if the Commission were to determine merely the "market price" of natural gas in a particular field or area in which there is an open market between buyers and sellers equally free to bargain, there would be relatively small need for the exercise of administrative judgment or discretion.

However, under the bill the Commission is to determine the "reasonable market price" of the gas "at the point at which the gas is delivered into the transportation facilities of the natural-gas company." It is not a market price alone that the Commission is to determine, but the "reasonable" market price at a particular point. The addition of the word "reasonable" to the familiar term "market price" is to be viewed in conjunction with the requirement in the bill that in making its determination the Commission shall consider, among other things, whether such price was competitively arrived at, the effect of the contract upon the assurance of supply, and the reasonableness of the provisions of the contract as they relate to existing or future prices. When these provisions are all read in the light of each other, it is apparent that the Commission is not narrowly limited in the matters which it may consider in determining the reasonable market price, but that instead the Commission may look to all of the factors which are properly relevant.

Among other factors requiring recognition and consideration are (1) the quality of the natural gas being purchased; (2) conditions of delivery; (3) the level of prices established currently by generally comparable contracts; (4) prices in different fields and producing areas; (5) whether such prices and the contract price have been established by arm's-length bargaining; and (6) the variation of competitive market prices.

1. Quality of natural gas

Variations of quality must be recognized in reviewing market prices. A thousand cubic feet of natural gas is not a constant unit of measurement. Gas purchased under different contracts varies substantially with respect to pressure base, B. t. u. content, percentage of liquid hydrocarbons and sulfur content, and other quality factors. In reviewing market prices, care must be exercised that variations of quality are recognized and that comparisons are made among products

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of like quality or that appropriate adjustments are made for differences in quality.

2. Conditions of delivery

In reviewing prices, the Commission must recognize the variations in conditions of delivery.

To illustrate, small quantities that must be brought together by special gathering facilities installed by the buyer may not have the same value as large quantities of dry gas available at the tailgate of a gasoline plant. Similarly, dry gas or condensate gas produced from gas wells and oil-well gas produced as a byproduct of oil production, each may have different market values.

3. Current level of field prices for natural gas

The review of price must look primarily to the competitively determined level of prices for gas at the time the contract was executed.

The level of market prices in the field has changed and may be expected to continue to change, in one direction or the other, for many reasons. Prices required at the time of opening of a new field to attract transportation facilities are no reliable guide to prices that will prevail after a market has been established. Prices of the remnants of supply in a field as it nears depletion should not be used as the test under other conditions in that field or adjacent fields. Prices which exist during a period of great surplus availability of natural gas when it is sold on a byproduct basis are not a criteria of market prices at a subsequent time.

Money is itself a variable measuring stick because of the fluctuation of purchasing power.

The review of prices established by each contract must be in the light of competitively determined prices reflecting the conditions of supply and demand at the time the contract is executed.

4. Prices in different fields and areas

Field prices tend to reflect geographic differences but the prices in different fields and producing areas are related. Changes in level of prices in one field are reflected by price changes in other fields. Individual pipelines take gas from several fields or areas. The normal or customary prices reflect differences in cost of transportation to market and other causes of price variations. The entire pattern of current prices established by arm's-length bargaining in the given field and in other fields, including major producing areas, is available to the Commission and is appropriate evidence for review.

There is no difference for this purpose between contracts of sale of natural gas for intrastate uses and contracts of sale for interstate transportation. Other factors being equal and in the absence of governmental price fixing, competitively determined field prices tend to be the same for intrastate as for interstate consumption. The Federal Power Commission should watch the price behavior in the competitive uncontrolled intrastate market as a continuing means of evaluating prices in contracts for interstate movement.

5. Bargaining at arm's length

Market prices in the vicinity arrived at in arm's-length bargaining would appear to be reasonable in the absence of clear and convincing evidence to the contrary. This presumption of reasonableness does

not exist where natural gas is purchased by a natural-gas company from an affiliate. Prices established under conditions of less than arm's-length bargaining are subject to closer scrutiny.

6. Variation of competitive market price

The normal behavior of buyers and sellers is that buyers try to buy at the lowest and sellers try to sell at the highest prices consistent with their long-term interests. However, even under the most intensively competitive conditions all buyers and sellers do not have at the given time an equal knowledge of the market and an equal bargaining position.

To illustrate, a pipeline company may be under severe pressure to secure additional supplies, while the producers are in no hurry to develop added volume. Consequently, the price may be bid up to a point reflecting the temporary pressure on the buyer. Such a price might not be significant as evidence in review of other market prices in the producing field or area.

On the other hand, sellers often are under compulsion to sell natural gas because of drainage, pressure from royalty owners, economic compulsion, or other types of pressures. The prospective pipeline buyer at that time may have adequate reserves and not be pressed for additional supplies. This particular price may not be useful evidence for the purpose of review of prices established by other contracts.

OTHER PROVISIONS OF THE BILL

Granting of certificates

The bill, in section 4, also provides, by an amendment to section 7 (e) of the act, consistently with the provisions heretofore discussed, that in deciding whether to grant a certificate of public convenience and necessity which is supported by a natural-gas purchase contract, the Commission will consider whether the price under the contract is the reasonable market price thereof at the point at which the gas is to be delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced.

Foreign commerce

The bill, in section 1, would amend the definition of "interstate commerce" in section 2 of the act so that such term would include commerce between a point in the United States and a foreign nation, but only insofar as that commerce takes place within the United States. It was held in the case of *Border Pipe Line Co.* v. *Federal Power Commission* (171 F. 2d 149), that the present definition was not intended to include foreign commerce. Therefore, the only power the Commission has at present over foreign commerce in natural gas is that of granting or refusing permission to export or import such gas; it has no jurisdiction over the rates and charges to be imposed with respect to transportation and sales in foreign commerce—even with respect to the part thereof which occurs in the United States.

It has long been the view of the Federal Power Commission, as expressed in its annual reports for the years 1951, 1952, 1953, and 1954 that its jurisdiction should be extended to include foreign commerce in natural gas.

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APPENDIXES

APPENDIX I

Comparison of estimated cost of gas supply in field and cost of transportation for selected communities, year 1950, and test year of latest rate-increase application

[Cents per thousand cubic feet]

(1)	New York City (2)	Boston (3)	Washington (4)	Baltimore (5)	Milwaukee (6)	Chicago (7)	Detroit (8)	Minneapolis (9)	Los Angeles (to Southern California Gas Co.) (10)	Denver (11)	Kansas City (12)
Components of current price:											
Cost of gas supply in field	10.8	10.3	14.8	14.8	9.9	11.2	9.7	10.7	9.2	10.9	10.3
Transportation component (see note)	24.5	45.7	34.7	28.3	23.1	13.3	20.4	24.0	15.7	16.7	13.5
Total average price delivered	35.3	56.0	49.5	43.1	33.0	24.5	30.1	34.7	24.9	27.6	23.8
Portion of delivered price subject to refund	3.3	[1]	8.3	6.3	1.4	3.3	1.9	3.6	7.8	14.9	6.2
Components of year 1950 price:											
Cost of gas supply in field	[2] 7.2		7.7	7.7	8.2	4.3	6.6	6.6	5.1	4.8	7.2
Transportation component (see note)	[2] 21.2		25.2	20.9	20.0	6.8	16.6	10.8	9.4	10.9	8.2
Total average price delivered	[2] 28.4		32.9	28.6	28.2	11.1	23.2	[3] 17.4	[3] 14.5	15.7	15.4
Increase, current average price over year 1950 price:											
Cost of gas supply in field	3.6		7.1	7.1	1.7	6.9	3.1	4.1	4.1	6.1	3.1
Transportation component (see note)	3.3		9.5	7.4	3.1	6.5	3.8	13.2	6.3	5.8	5.3
Total average price delivered	6.9		16.6	14.5	4.8	13.5	6.9	17.3	10.4	11.9	8.4
Portion of delivered price subject to refund	3.3		8.3	6.3	1.4	3.3	1.9	3.6	7.8	14.9	6.2

[1] No rates subject to refund. Present rate same as initial rates effective in year 1953.
[2] Data for year 1951, first year of service.
[3] Reflects rates which became effective subject to refund in year 1950.

NOTE.—Above "Transportation component" includes cost of storage where applicable. Insofar as this tabulation is concerned, where supplier also produces gas, the inclusion thereof on a cost-of-service basis has the effect of imputing to such gas an average cost per thousand cubic feet equivalent to the average cost of gas purchased from others in the field. In such instance, the income-tax component of the transportation cost reflects the income-tax deduction associated with the production of gas.

Baltimore, Md.—Served by Consolidated Gas Electric Light & Power Co. of Baltimore, supplied by Atlantic Seaboard Corp.

	1949	1950	1951	1952	1953	1954
Volume of natural gas supplied to Consolidated Gas Electric, million cubic feet	.....	7,719	13,369	16,045	18,508	21,332
Estimated average field price received by producers for natural gas sold in Baltimore, cents per thousand cubic feet	.....	10.8	7.7	8.5	11.0	12.5
Average cost of natural gas supplied at city gate, cents per thousand cubic feet	.....	29.1	30.3	34.8	39.9	38.8
Total number of gas customers served by Consolidated Gas Electric, thousands	291	300	310	321	330	(1)
Average cost of gas to all customers, dollars per thousand cubic feet	2.13	1.83	1.52	1.47	1.42	(1)
Number of residential customers served by Consolidated Gas Electric, thousands	270	279	288	298	306	(1)
Average use per residential customer, thousand cubic feet per year	21.7	24.2	28.7	32.6	35.6	(1)
Average cost per thousand cubic feet for residential service, dollars per thousand cubic feet	2.34	2.04	1.68	1.62	1.58	(1)
Price to residential customer in Baltimore for typical cooking, water heating, and home heating use,[2] dollars per thousand cubic feet	1.71	1.26	1.26	1.26	1.26	1.26

[1] Not available.
[2] 14.76 thousand cubic feet per month is quantity estimated to be used by residential customer for home heating, cooking, and heating water. Abrupt decrease in price in 1950 due to introduction of natural gas.

NOTE.—Consolidated Gas Electric serves Baltimore and portions of the surrounding area. The marketing data presented herein reflects total company. Natural gas was introduced in 1950. Data pertaining to customer consumption and cost to customer for 1949 and 1950 is presented as the equivalent of 1,050 British thermal units natural gas.

Source: Annual Report to the Federal Power Commission by Atlantic Seaboard Corp., Moody's Public Utility Manual, and American Gas Association Rate Book.

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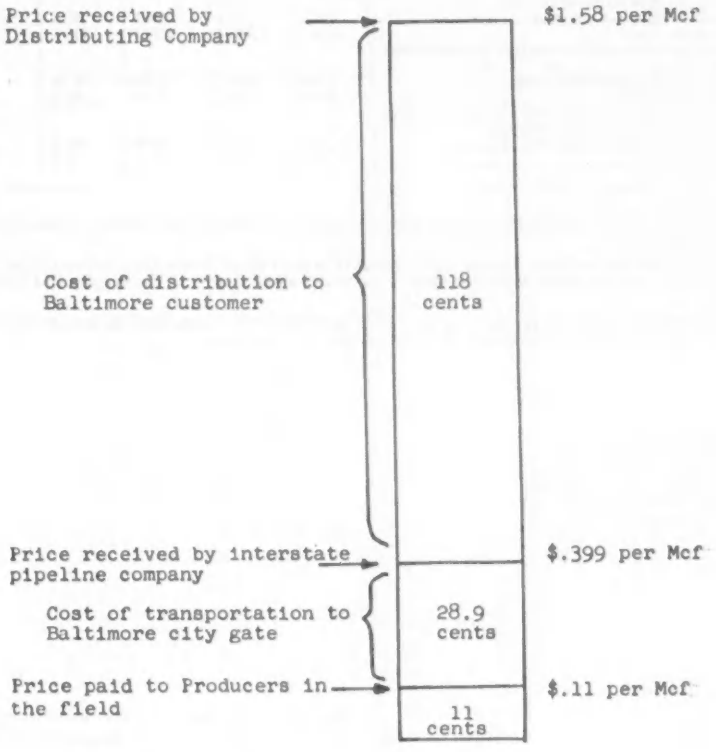
BALTIMORE

Comparative Prices of Natural Gas
Paid to the Producer in the Field, Paid to the Pipeline
Company and Received by the Distributing Company

Average for all gas used by Residential Customers
1953
Source: Annual Reports to F.P.C.; Moody's Public Utilities



Chicago, Ill.—Served by the Peoples Gas Light & Coke Co., supplied by Texas-Illinois Natural Gas Pipeline Co., and Natural Gas Pipe Line Company of America

	1950	1951	1952	1953	1954
Volume of natural gas supplied to the Peoples Gas Light & Coke Co, million cubic feet	55,059	77,646	99,091	102,368	116,985
Estimated average field price received by producers for natural gas supplied to Chicago, cents per thousand cubic feet	4.5	6.1	8.2	8.6	11.0
Average heat content of natural gas supplied, British thermal units per cubic foot	1,029	1,033	1,037	1,036	1,034
Average cost of natural gas supplied to Chicago District Pipeline Co. at Joliet for Peoples Gas Light & Coke Co., cents per thousand cubic feet	11.4	11.7	15.1	16.0	20.5
Number of residential customers served by the Peoples Gas Light & Coke Co., thousands	885	892	900	910	(1)
Average use per residential customer:					
Thousand cubic feet per year	34.8	36.1	38.5	42.3	(1)
Therms per year	358.2	372.4	399.3	439.1	(1)
Average cost per thousand cubic feet for residential service:					
Dollars per thousand cubic feet	1.08	1.06	1.04	1.05	1.09
Cents per therm	10.5	10.3	10.0	10.1	10.5
Price to residential customer for typical cooking, water heating, and home heating use: [2]					
Cents per thousand cubic feet	78.9	79.2	79.4	88.8	95.7
Cents per therm	7.7	7.7	7.7	8.6	9.3

[1] Not available.

[2] 200 therms per month is estimated quantity used by residential customer for home heating, cooking, and heating water.

Source: Moody's Public Utility Manual, annual reports to the Federal Power Commission by the pipeline companies, American Gas Association Rate Book, 1954 Annual Report of the Peoples Gas Light & Coke Co.

NOTE.—Cost and average use per customer converted from therms to thousand cubic feet equivalent of natural gas as determined on basis of heat content of natural gas supplied.

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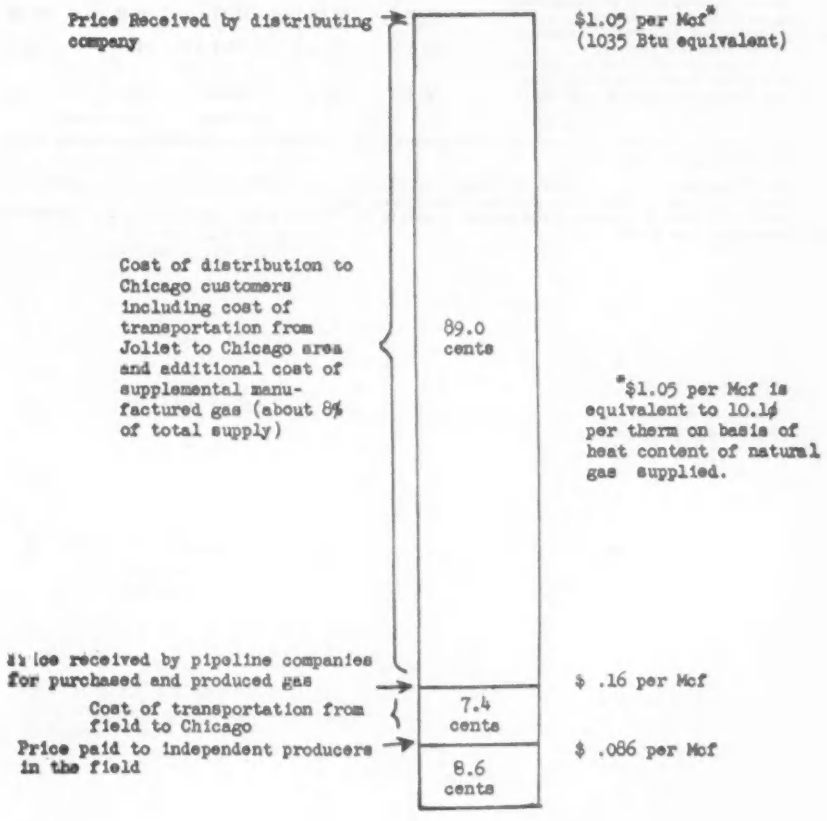
CHICAGO

Comparative Prices of Natural Gas
Paid to the Producers in the Field, Paid to the Pipeline Company
and Received by the Distributing Company

Average for all gas used by Residential Customers

1953

(Source: Annual Reports to F.P.C. by Pipeline Companies;
A.G.A. Rate Book)



Cleveland, Ohio—Served by the East Ohio Gas Co.; supplied by various pipeline companies

	1949	1950	1951	1952	1953
Volume supplied to East Ohio Gas, thousand cubic feet	117,540,187	149,861,945	166,239,739	173,181,185	171,775,624
Estimated average field price received by producers for natural gas supplied to Cleveland, cents per thousand cubic feet	8.97	8.87	8.63	9.05	11.38
Average cost of natural gas supplied to East Ohio Gas, cents per thousand cubic feet	25.90	27.08	27.69	30.27	33.80
Total number of gas customers in Cleveland	357,611	365,568	374,457	382,297	391,404
Average cost of gas to all Cleveland customers, cents per thousand cubic feet	55.33	54.71	55.82	57.54	57.34
Number of residential gas customers in Cleveland	336,580	343,645	352,115	359,517	368,035
Average cost of gas to residential customer, cents per thousand cubic feet	58.87	53.76	57.87	58.16	60.39
Average use per residential customer, thousand cubic feet per year	109.0	132.1	146.1	148.7	148.6
Price to residential customer for typical home heating, cooking, and water heating use, cents per thousand cubic feet [1]	56.9	56.9	56.9	56.9	61.8

[1] 17.21 thousand cubic feet per month is quantity estimated to be used by residential customer for space heating, cooking, and heating water.

NOTE.—Principal sources of supply are Hope Natural Gas Co., Panhandle Eastern Pipe Line Co., Tennessee Gas Transmission, Texas Eastern Transmission Corp.

Source: Determined from data in the annual reports to the Federal Power Commission and American Gas Association Rate Book.

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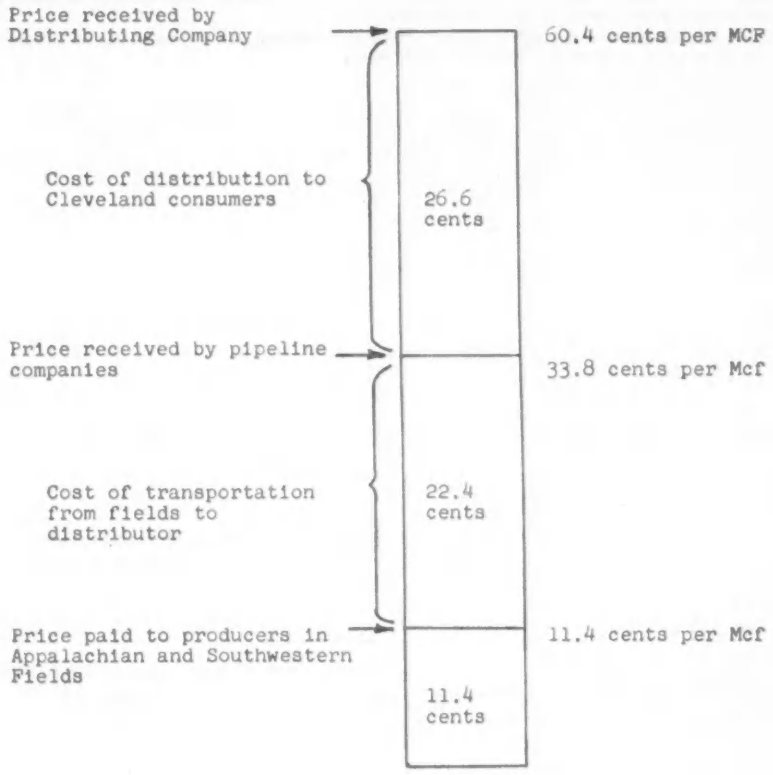
CLEVELAND

Comparative Prices of Natural Gas
Paid to the Producer in the Field, Paid to the Pipeline
Companies and Received by the Distributing Company

Average for all gas used by residential customers

1953
(Source: Annual reports to FPC)



Detroit, Mich.—Served by Michigan Consolidated Gas Co., supplied principally by Panhandle Eastern Pipe Line Co., and Michigan Wisconsin Pipe Line Co.

	1950	1951	1952	1953	1954
Volume supplied to Detroit, million cubic feet	89,636	99,955	104,634	114,643	(1)
Weighted average field price received by producers for natural gas supplied to Detroit, cents per thousand cubic feet	6.9	7.1	8.3	8.9	8.5
Average cost of natural gas supplied to Detroit distributor, cents per thousand cubic feet	22.8	24.3	30.0	32.6	29.2
Average cost of gas to Detroit residential customer, cents per thousand cubic feet	77.4	76.2	77.3	87.2	(1)
Average use per residential customer, thousand cubic feet per year	84.0	97.2	93.6	89.0	(1)
Price to residential customer in Detroit for typical cooking, water heating, and home heating use,[2] cents per thousand cubic feet	70.7	70.7	70.7	80.8	78.5

[1] Not available.
[2] 20,000 cubic feet per month is quantity estimated to be used by residential customer for home heating, cooking, and heating water.

NOTE.—The average use per residential customer is an estimate based on the number of residential customers and residential sales in the total Detroit area.

Source: Determined from data in the annual reports to the Federal Power Commission by the pipeline companies, and the American Gas Association Rate Book.

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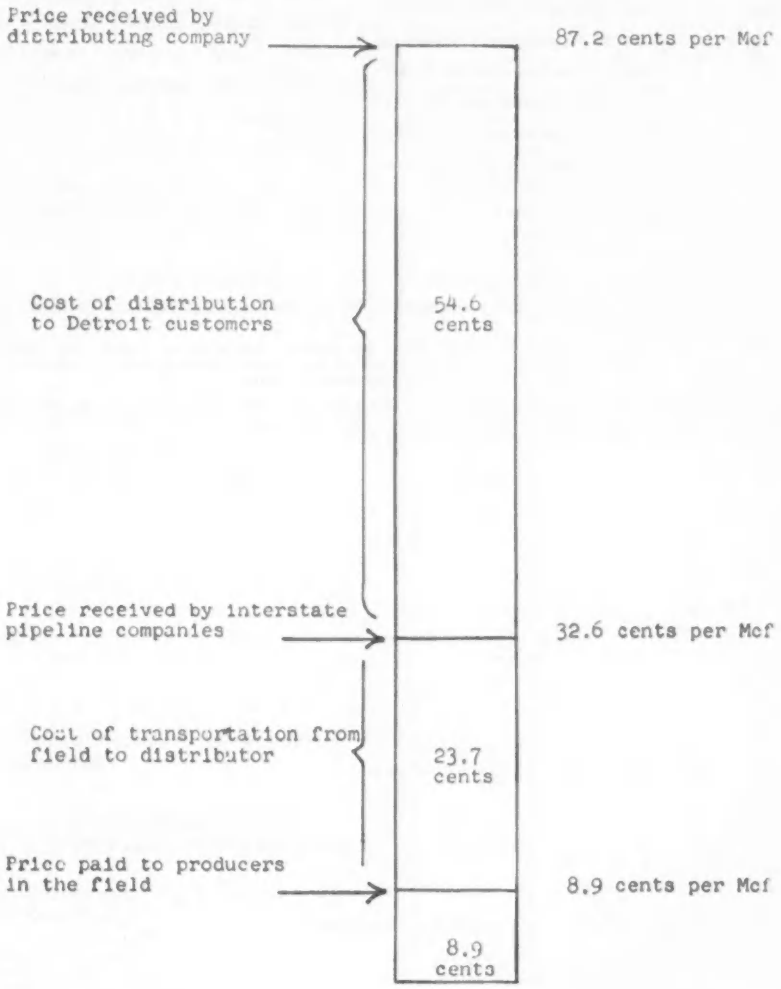
DETROIT
Comparative Prices of Natural Gas
Paid to the Producer in the Field, Paid to the Pipeline Companies and Received by the Distributing Company
Average for all gas used by residential customers

1953
(Sources: Annual reports to FPC; Moody's Public Utilities"



Milwaukee, Wis.—Served by Milwaukee Gas Light Co., supplied by Michigan Wisconsin Pipe Line Co.

	1950	1951	1952	1953	1954
Volume of natural gas supplied to Milwaukee Gas Light Co., million cubic feet [1]	11,042	18,699	19,945	21,654	24,203
Weighted average, field price received by producers for natural gas supplied to Milwaukee, cents per thousand cubic feet [1]	8.2	8.3	8.7	9.5	8.7
Average cost of natural gas at city gate, cents per thousand cubic feet [1]	28.2	29.2	31.8	35.0	31.6
Total number of gas customers served by Milwaukee Gas Light	217,487	224,496	229,032	231,667	(2)
Average cost of gas to all customers, dollars per thousand cubic feet	1.09	0.97	0.97	0.97	(2)
Number of residential gas customers served by Milwaukee Gas Light	209,187	216,227	220,808	223,370	(2)
Average use per residential customer, thousand cubic feet per year	33.6	52.3	61.2	60.8	(2)
Average cost of gas to residential customer, dollars per thousand cubic feet	1.41	1.23	1.19	1.26	(2)
Price to residential customer in Milwaukee for typical cooking, water heating, and home heating use:					
Dollars per thousand cubic feet [3]	0.98	0.98	0.98	1.09	1.09
Cents per therm	10.1	10.1	10.1	11.1	11.1

[1] On basis of 14.735 p. s. i. a. pressure base.
[2] Not available.
[3] 225 therms per month is quantity estimated to be used by residential customer for home heating, cooking and heating water.

NOTE.—Milwaukee Gas Light Co. serves Milwaukee and its suburban area. Data herein reflects sales in companies' entire distribution area. Data pertaining to customer consumption and natural gas cost to customer are presented as equivalent to 975 British thermal units.

Source: Determined from data in: Milwaukee Gas Light Co.'s prospectus dated Oct. 30, 1950; Moody's Public Utility Manual; Annual Reports to the Federal Power Commission by Michigan Wisconsin Pipe Line Co., and the American Gas Association Rate Book.

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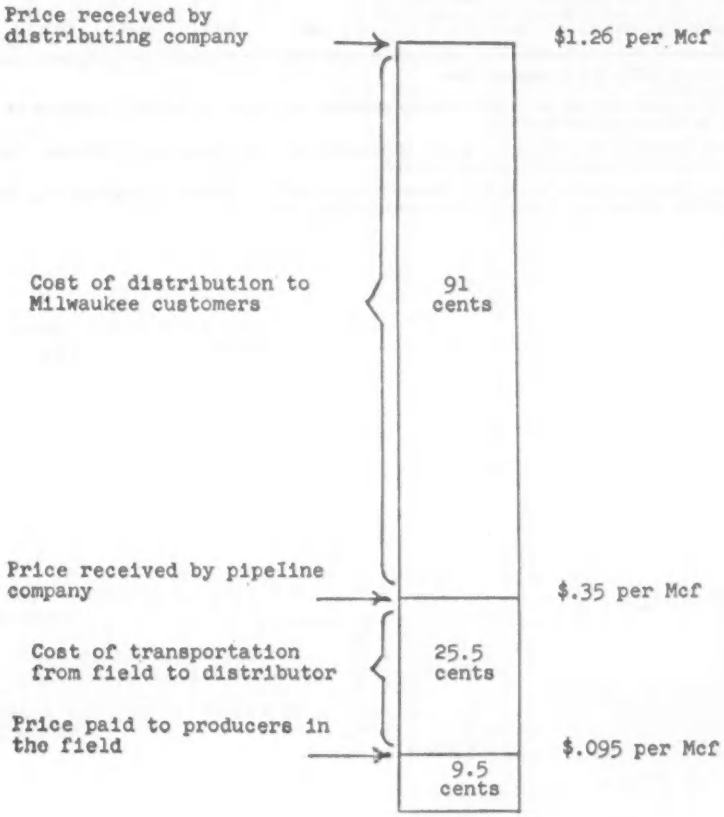
MILWAUKEE
Comparative Prices of Natural Gas
Paid to the Producers in the Field, Paid to the Pipeline Company and Received by the Distributing Company
Average for all gas used by residential customers

1953
(Source: Annual Reports to FPC; Moody's Public Utilities)



Minneapolis, Minn.—Served by Minneapolis Gas Co., supplied by Northern Natural Gas Co.

	1950	1951	1952	1953	1954
Volume supplied to Minneapolis Gas Co., million cubic feet [1]	30,988	38,592	41,614	45,580	51,135
Weighted average field price received by producers for natural gas supplied to Minneapolis cents per thousand cubic feet [1]	6.6	7.3	8.0	9.8	10.4
Average cost of natural gas supplied at city gate, cents per thousand cubic feet [1]	17.4	17.4	18.9	20.2	32.3
Total number of gas customers served by Minneapolis Gas Co	157,787	164,761	171,528	178,463	(2)
Average cost of gas to all customers, cents per thousand cubic feet	52.8	49.2	56.7	59.0	(2)
Number of residential gas customers served by Minneapolis Gas Co	150,415	157,008	163,395	169,523	(2)
Average use per residential gas customer, thousand cubic feet per year	103.2	118.2	121.5	128.8	(2)
Average cost of gas to residential customer, cents per thousand cubic feet	75.4	69.4	78.5	81.7	(2)
Price to residential customer in Minneapolis for typical cooking, water heating, and home heating use, cents per thousand cubic feet [3]	66.5	55.6	65.0	75.3	75.3

[1] On basis of 14.73 p. s. i. a. pressure base.
[2] Not available.
[3] 23.5 thousand cubic feet per month quantity estimated to be used by residential customer for home heating, cooking, and water heating.

NOTE.—Minneapolis Gas Co. serves gas in Minneapolis and 16 surrounding communities. The marketing data presented herein are total for company.

Source: Annual reports to the Federal Power Commission by Northern Natural Gas Co., Moody's Public Utility Manual, and American Gas Association Rate Book.

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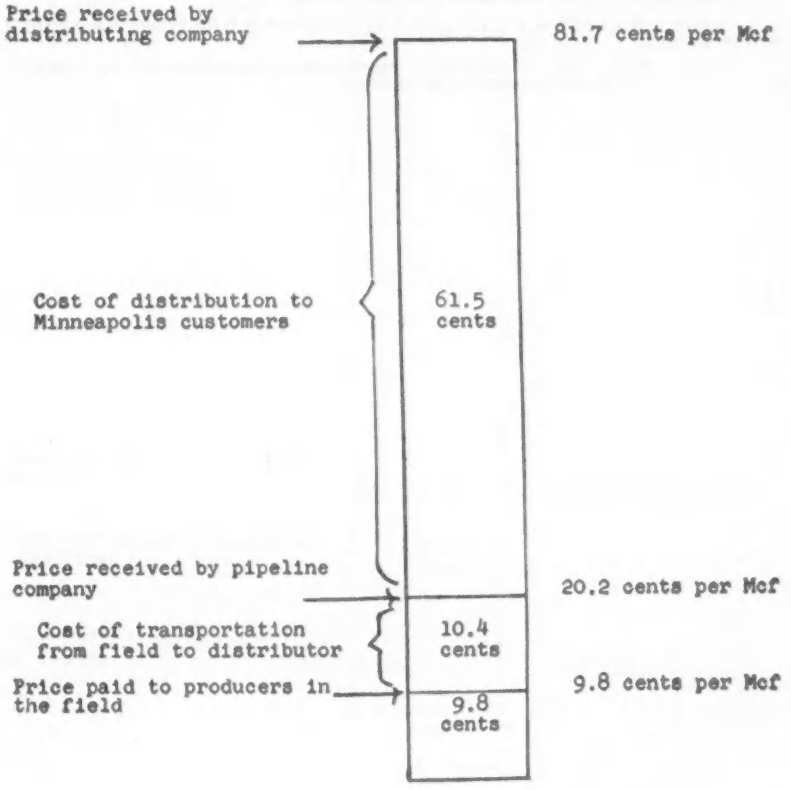
MINNEAPOLIS
Comparative Prices of Natural Gas
Paid to the Producers in the Field, Paid to the Pipeline
Company and Received by the Distributing Company

Average for all gas used by residential customers

1953
(Source: Annual Reports to FPC: Moody's Public Utilities)



Nashville, Tenn.—Served by the Nashville Gas Co.; supplied by Tennessee Natural Gas Lines, Inc., from Tennessee Gas Transmission Co.

	1949	1950	1951	1952	1953	1954
Volume of natural gas supplied to Nashville Gas Co., thousand cubic feet	3,982,053	4,351,112	5,897,077	7,068,449	7,814,508	9,195,517
Weighted average field price received by producers for natural gas supplied to Nashville, cents per thousand cubic feet	4.6	5.1	5.6	6.6	9.5	10.6
Average cost of natural gas at Nashville city gate, cents per thousand cubic feet	17.6	23.2	24.8	24.0	25.9	30.5
Price to residential customer in Nashville for typical cooking and water heating use,[1] cents per thousand cubic feet	140.4	140.4	140.4	140.4	142.1	142.1
Price to residential customer in Nashville for typical cooking, water heating, and home heating use,[2] cents per thousand cubic feet	87.0	87.0	87.0	87.0	90.6	90.6

[1] 25 therms per month (2.4 M c. f. of 1,043 B. t. u. natural gas) is quantity estimated to be used by a residential customer for cooking and water heating.

[2] 140 therms per month (13.4 M c. f. of 1,043 B. t. u. natural gas) is quantity estimated to be used by a residential customer for cooking, water heating, and home heating.

NOTE.—Therm equals 100,000 B. t. u.'s, 1,043 B. t. u.'s per cubic foot is the average heat content of the natural gas supplied.

Source: Moody's Public Utility Manual, annual reports of the pipeline companies to the Federal Power Commission, and the American Gas Association Rate Book.

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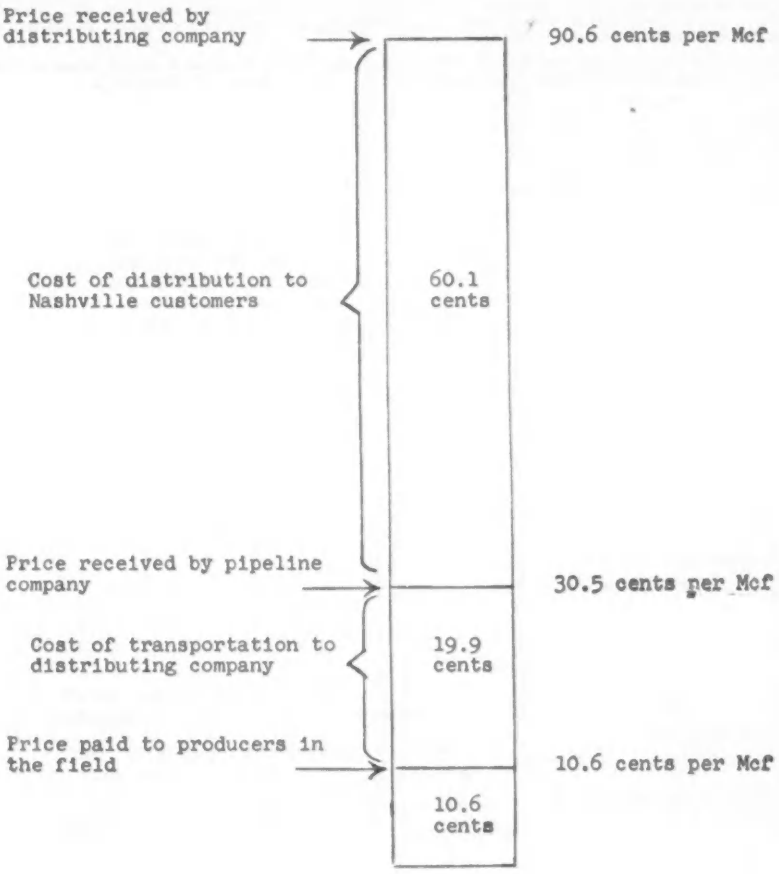
NASHVILLE
Comparative Prices of Natural Gas
Paid to the Producers in the Field, Paid to the Pipeline
Company and Received by the Distributing Company
For 13.4 Mcf of Monthly Residential Uses,
Including House Heating

1953
(Source: Annual reports to FPC; Rate Service, A.G.A.)



City of New York, N. Y.—Served by Consolidated Edison of New York, supplied by Transcontinental Gas Pipe Line Co.

	1950	1951	1952	1953	1954
Weighted average field price received by independent producers for natural gas supplied to city of New York, cents per thousand cubic feet		7.1	7.4	7.7	7.8
Volume of natural gas supplied at city gate, billion cubic feet		36.5	47.2	52.0	53.0
Average cost of natural gas delivered to Consolidated Edison, cents per thousand cubic feet		27.7	27.9	30.9	31.8
Average use per residential customer, thousand cubic feet per year		13.71	13.64	13.32	15.64
Average cost per thousand cubic feet for residential service, dollars	2.62	2.53	2.43	2.46	2.42

NOTE.—Data for average cost and use per residential customer are on equivalent basis for 1,055 British thermal units natural gas. Consolidated Edison serves both straight natural and mixed gas. This data applies to all of Consolidated Edison's service area, consisting principally of Manhattan, Bronx, and portions of Queens and Westchester County.

Source: Annual Reports to the Federal Power Commission by the pipeline companies, Moody's Public Utility Manual, and Consolidated Edison's Annual Reports to the New York State PSC.

UNIVERSITY OF MICHIGAN LIBRARIES

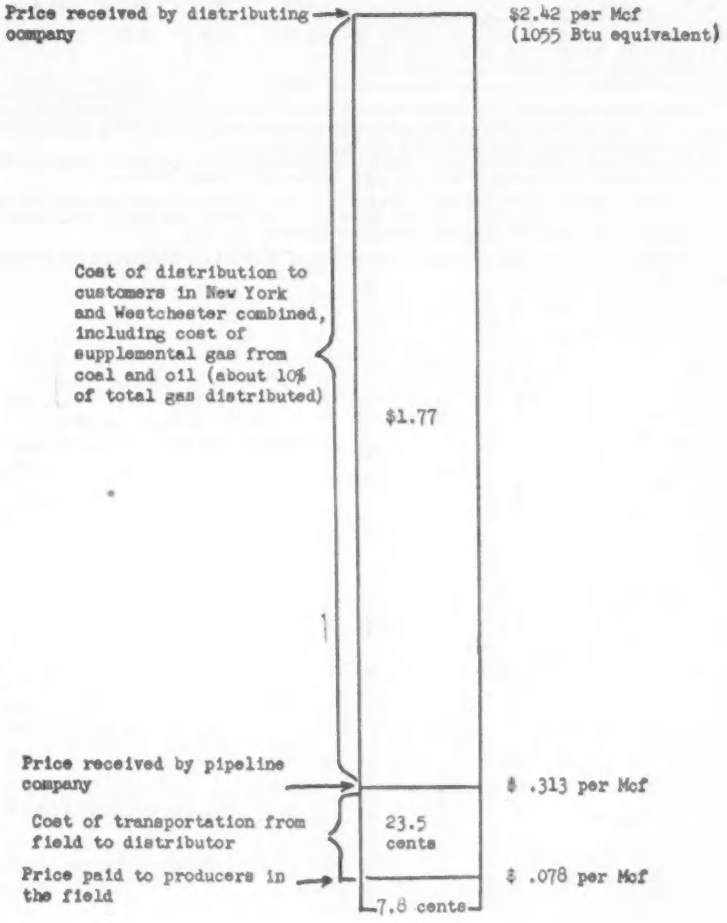
NEW YORK CITY and WESTCHESTER COUNTY
Service Area of Consolidated Edison Company, Inc.

Comparative Prices of Natural Gas
Paid to the Producers in the Fields, Paid to the Pipeline Company
and Received by the Distributing Company

Averages for all natural gas used by residential customers

1954

(Sources: Annual Reports to F.P.C. and New York Commission)



Philadelphia, Pa.—Served by Philadelphia Gas Works Division of United Gas Improvement Co., supplies by Transcontinental Gas Pipe Line Corp. and Texas Eastern Transmission Corp.

	1950	1951	1952	1953	1954
Volume of natural gas supplied to Philadelphia Gas Works at city gate, million cubic feet	21,486	27,314	29,856	34,419	36,020
Weighted average field price received by producers for gas supplied to Philadelphia, cents per thousand cubic feet	6.7	6.5	7.8	9.5	10.0
Average cost of natural gas at city gate, cents per thousand cubic feet	30.3	29.9	31.5	36.3	38.1
Price to residential customer for typical cooking and water heating use,[1] dollars per thousand cubic feet	1.78	1.78	1.78	1.78	1.78
Price to residential customer for typical cooking, water heating, and home heating use,[2] dollars per thousand cubic feet	1.36	1.36	1.36	1.36	1.36

[1] 25 therms per month (2,500 cubic feet of 1,000 British thermal units natural gas) is quantity estimated to be used by a residential customer for cooking and heating water.

[2] 160 therms per month (16,000 cubic feet of 1,000 British thermal units natural gas) is quantity estimated to be used by a residential customer for cooking, water heating, and home heating.

NOTE.—10 therms equal 1 million British thermal unit or the equivalent of 1,000 cubic feet of 1,000 British thermal units natural gas. Prices to residential customers, as used herein, are on the basis of 1,000 British thermal units gas. Mixed gas of lower heat content is actually served.

Source: Annual reports of pipeline companies to the Federal Power Commission and the American Gas Association Rate Book.

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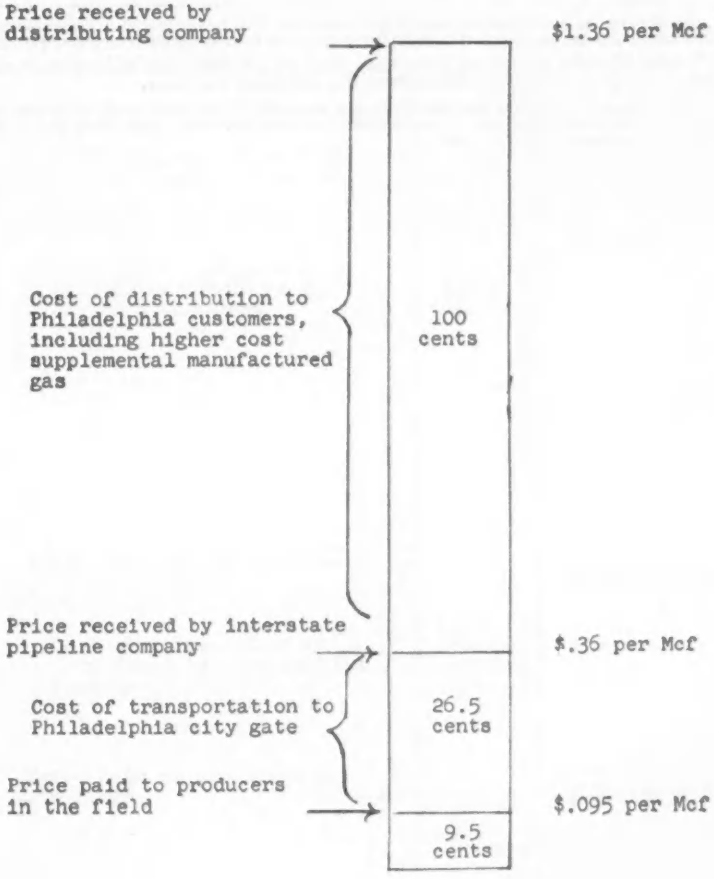
PHILADELPHIA
Comparative Prices of Natural Gas
Paid to the Producer in the Field, Paid to the Pipeline
Company and Received by the Local Distributor
For 16 Mcf of Monthly Residential Uses
Including House Heating

1953
(Source: Annual Reports to FPC; Rate Service, A.G.A.)



Richmond, Va.—Served by a municipal system supplied by Commonwealth Natural Gas Corp.

	1949	1950	1951	1952	1953	1954
Estimated average field price received by producers for gas supplied to Richmond, cents per thousand cubic feet	-------	10.8	7.7	8.5	11.0	12.5
Volume of natural gas supplied to city of Richmond, million cubic feet	-------	368	2,023	2,565	3,064	3,685
Average cost of natural gas at Richmond City gate, cents per thousand cubic feet	-------	39.8	42.0	45.7	52.5	52.8
Price to residential customer in Richmond for typical cooking and water heating use,[1] dollars per thousand cubic feet	2.99	2.26	2.26	2.26	2.59	2.59
Price to residential customer in Richmond for typical cooking, water heating, and home heating use,[2] dollars per thousand cubic feet	1.66	1.21	1.21	1.21	1.53	1.53

[1] 2.27 thousand cubic feet per month is quantity estimated to be used by residential customer for this use.
[2] 13.18 thousand cubic feet per month is quantity estimated to be used by residential customer for this use.

Source: Annual reports to the Federal Power Commission by Commonwealth Natural Gas Corp. and other supplier pipeline companies, and the American Gas Association Rate Book.

NOTE.—Natural gas was introduced in 1950, 1949 prices to residential customer are on equivalent basis of 1,100 British thermal units natural gas. Prices to residential customers are those in effect Dec. 15 of each year and include 5 percent city utility tax.

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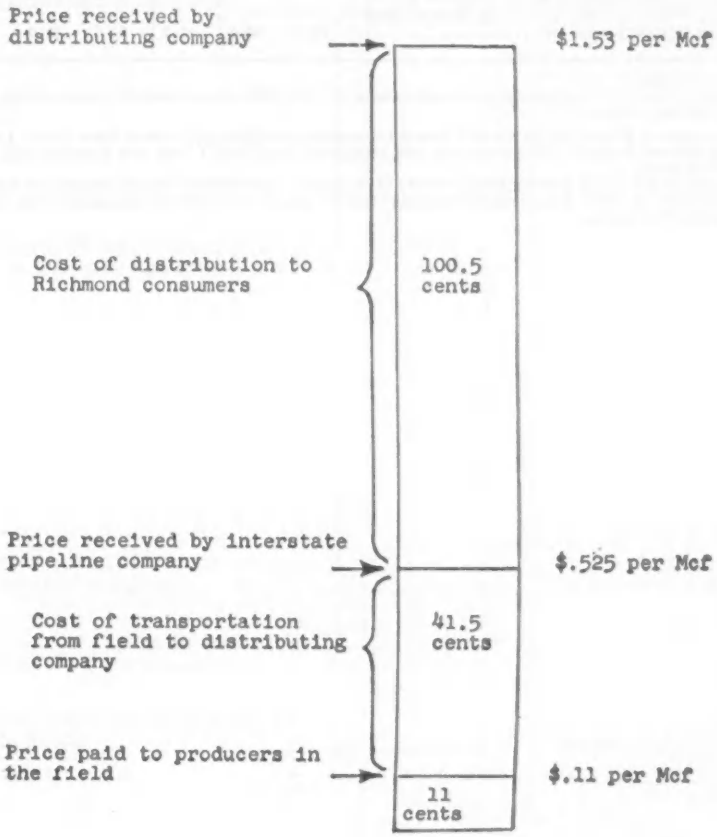
RICHMOND
Comparative Prices of Natural Gas
Paid to the Producers in the Field, Paid to the Pipeline Company, and received by the Distributing Company
For 13.2 Mcf of Monthly Residential Uses
Including House Heating

1953

(Source: Annual Reports to the FPC, Rate Service; A.G.A.)



St. Louis, Mo.—Served by the Laclede Gas Co., supplied by Mississippi River Fuel Corp.

	1949	1950	1951	1952	1953	1954
Volume of natural gas supplied to Laclede Gas Co., million cubic feet	13,773	30,340	37,423	40,494	44,763	48,454
Estimated average field price received by producer for natural gas supplied to St. Louis, cents per thousand cubic feet	5.5	5.9	8.0	9.3	9.5	9.6
Average cost of natural gas to Laclede Gas Co., cents per thousand cubic feet	19.1	20.7	24.7	22.0	27.2	30.2
Average heat content of natural gas supplied in British thermal units per cubic feet	1,009	1,033	1,043	1,047	1,063	1,071
Number of residential customers served by Laclede Gas Co., thousands	292.1	299.5	309.4	317.6	323.4	(1)
Average use per residential customer, thousand cubic feet per year	35.5	50.9	73.2	72.2	72.3	(1)
Average cost of gas to residential customer, cents per thousand cubic feet	113.9	104.9	94.5	96.0	99.2	(1)
Price to residential customer in St. Louis for typical cooking, water heating, and home heating use,[2] cents per thousand cubic feet	78.6	80.4	81.2	81.5	91.0	90.2

[1] Not available.
[2] 160 therms per month is quantity estimated to be used by a residental customer for space heating, cooking, and heating water.

Source: Annual Reports to the Federal Power Commission by Mississippi River Fuel Corp. Laclede Gas Co.'s Annual Report to Stockholders for 1950, prospectus dated Dec. 1, 1954, and American Gas Association Rate Book.

NOTE.—Laclede Gas Co. serves city and county of St. Louis. Converted to straight natural gas between May and December 1949. Sales data in therms converted to thousands of cubic feet on basis of heat content of natural gas purchased.

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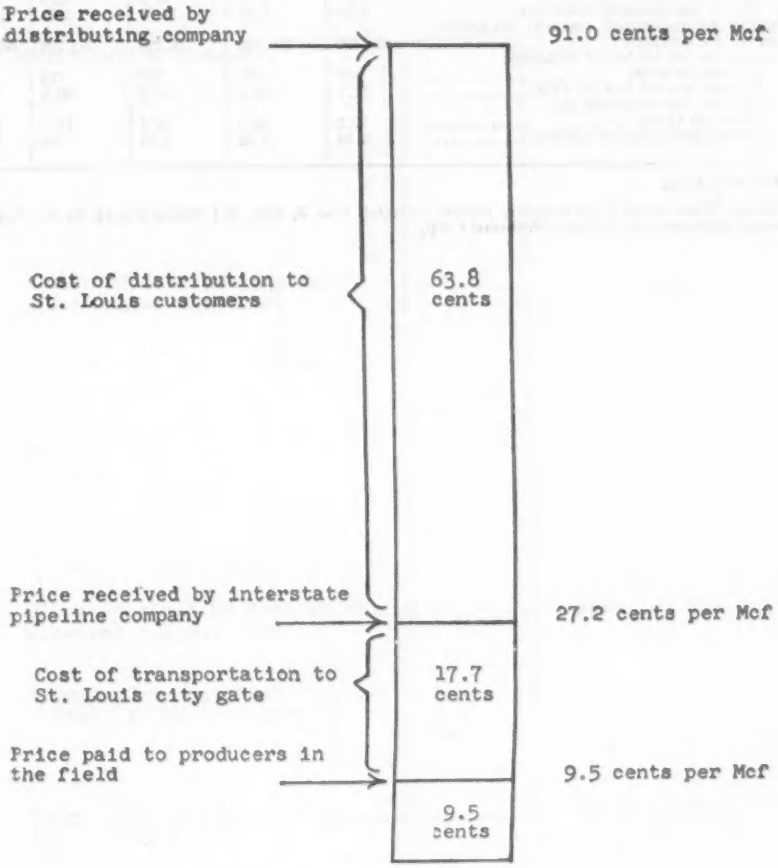
ST. LOUIS
Comparative Prices of Natural Gas
Paid to the Producer in the Field, Paid to the Pipeline
Company and Received by the Distributing Company
For 16 Mcf of Monthly Residential Uses
Including House Heating

1953
(Source: Annual Reports to FPC; Rate Service, A.G.A.)



Washington Gas Light Co. (Consolidated)—Supplied by Atlantic Seaboard Corp.

	1950	1951	1952	1953	1954
Estimated average field price received by producers for natural gas supplied to Washington Gas Light Co., cents per thousand cubic feet	10.8	7.7	8.5	11.0	12.5
Volume of natural gas supplied to company, million cubic feet per year	18,398	21,738	25,086	26,433	30,170
Average cost of natural gas delivered to company, cents per thousand cubic feet	33.2	33.3	40.6	44.9	41.38
Heat content of natural gas delivered by company, British thermal units per cubic foot	1,100	1,100	1,087	1,057	1,054
Total number of customers (meters) served by company	268,913	286,066	302,191	314,337	325,115
Average cost of gas for all types of services:					
Cents per therm	12.0	11.9	12.2	12.6	12.8
Dollars per thousand cubic feet	1.32	1.31	1.33	1.33	1.35
Number of residential (meters) customers served by company	249,690	264,620	278,725	289,766	299,205
Average use per residential customer:					
Therms per year	606	676	717	709	794
Thousand cubic feet per year	55.1	61.5	65.9	67.0	75.4
Average cost for residential use:					
Cents per therm	12.2	12.0	12.4	12.8	13.0
Dollars per thousand cubic feet	1.34	1.32	1.34	1.35	1.37

[1] Not available.

Source: Determined from company prospectus dated Mar. 8, 1955, and annual reports to the Federal ower Commission by Atlantic Seaboard Corp.

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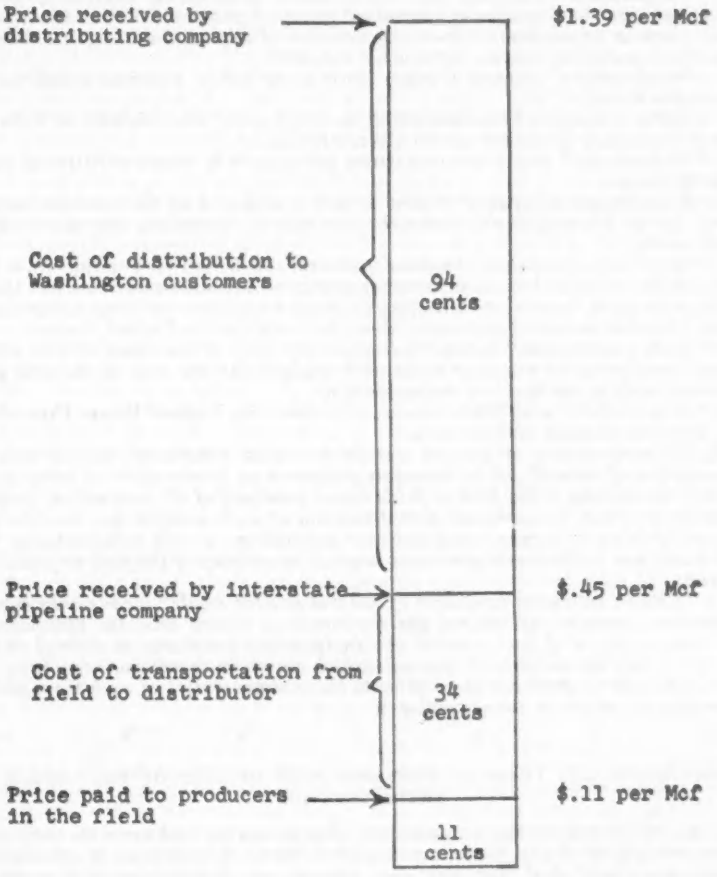
WASHINGTON, D. C.
Comparative Price of Natural Gas
Paid to the Producer in the Field, Paid to the Pipeline Company and Received by the Distributing Company
Averages for all gas used by residential customers

1953
(Source: Annual reports to the FPC)



APPENDIX II

CHANGES IN EXISTING LAW MADE BY THE BILL

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

NATURAL GAS ACT, AS AMENDED

SEC. 2. When used in this Act, unless the context otherwise requires—

(1) "Person" includes an individual or a corporation.

(2) "Corporation" includes any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or receivers, trustee or trustees of any of the foregoing, but shall not include municipalities as hereinafter defined.

(3) "Municipality" means a city, county, or other political subdivision or agency of a State.

(4) "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

(5) "Natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas.

(6) "Natural-gas company" means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.

(7) "Interstate commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, *or between any point in a State and any foreign nation,* but only insofar as such commerce takes place within the United States.

(8) "State commission" means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of natural gas to consumers within the State or municipality.

(9) "Commission" and "Commissioner" means the Federal Power Commission, and a member thereof, respectively.

(10) "Transportation of natural gas in interstate commerce" means only such transportation of natural gas in interstate commerce as occurs after the completion in or within the vicinity of the field or fields where produced of all production, gathering, processing, treating, compressing and delivering of such natural gas into the transportation facilities of a person engaged in transporting, in such transportation facilities, natural gas in interstate commerce beyond the vicinity of the field or fields where produced.

(11) "Sale in interstate commerce of natural gas for resale" means only such sale in interstate commerce of natural gas for resale as occurs after the commencement of the transportation of such natural gas in interstate commerce as defined in paragraph (10), but does not include any sale which occurs in or within the vicinity of the field or fields where produced at or prior to the commencement of such transportation in interstate commerce of the natural gas.

* * * * * * *

FIXING RATES AND CHARGES; DETERMINATION OF COST OF PRODUCTION OR TRANSPORTATION

SEC. 5. (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint of any State, municipality, State commission, or gas distributing company, shall find that any rate, charge, or classification demanded, observed, charged, or collected by any natural-gas company in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory, or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order: *Provided, however,* That the Commission shall have no power to order any increase in any rate contained in the currently effective schedule of such natural-gas company on file with the Commission, unless

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such increase is in accordance with a new schedule filed by such natural-gas company; but the Commission may order a decrease where existing rates are unjust, unduly discriminatory, preferential, otherwise unlawful, or are not the lowest reasonable rates.

(b) When an increase in any rate or charge for natural gas is filed with the Commission by a natural-gas company and is based in whole or in part upon any contract, executed or renegotiated after the date this subsection takes effect, for the purchase of natural gas from a person other than an affiliate, the Commission shall determine, unless there has been a prior determination under subsection (c) of this section, whether the price at which the natural-gas company has contracted to buy such natural gas is the reasonable market price thereof at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced. After such determination, the natural-gas company shall be allowed to charge as an operating expense for natural gas purchased under the contract only such part of the contract price as does not exceed such reasonable market price. In determining the reasonable market price of natural gas under the provisions of this section 5, the Commission shall consider, among other things, whether such price has been competitively arrived at, the effect of the contract upon the assurance of supply, and the reasonableness of the provisions of the contract as they relate to existing or future prices.

(c) The Commission shall determine upon application by a natural-gas company, or may determine upon the Commission's own motion, after notice and opportunity for hearing, whether the price to be paid for natural gas under the provisions of any contract executed or renegotiated after the date this subsection takes effect is the reasonable market price thereof at the point at which the gas is to be delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced. After such determination, the natural-gas company shall be allowed to charge as an operating expense for natural gas purchased under the contract, for the purposes of rates or charges thereafter filed by it under this Act, only such part of the contract price as does not exceed such reasonable market price.

(d) When an increase in any rate or charge for natural gas, filed with the Commission by a natural-gas company after the date this subsection takes effect, is based in whole or in part on an increase in price under the provisions of an escalation clause in any contract, other than a contract to which subsection (b) applies, for the purchase of natural gas from a person other than an affiliate, the Commission shall determine whether the price as so increased is the reasonable market price of the natural gas at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced. When the Commission has made such determination, the natural-gas company may charge as an operating expense for natural gas purchased under the contract only such part of the increase in price as results in a price which does not exceed such reasonable market price. As used in this section 5, the term "escalation clause" means any provision in a contract for the purchase of natural gas the operation of which may result in an increase in the price of the natural gas sold under the contract, but such term does not include (1) any provision for increases, by specific amounts, in the price of the natural gas at definite dates in the future, or (2) any provision under which the natural-gas company agrees to reimburse the seller of the gas for any increase in taxes which may be levied upon such seller after a specified date.

(e) Whenever, in connection with an increase in the price of natural gas under the provisions of an escalation clause, the Commission, pursuant to subsection (d), has made a determination as to the reasonable market price of such natural gas, the natural-gas company shall be obligated to pay only such part of the increase in price as results in a price which does not exceed such reasonable market price; and, except as otherwise provided in this subsection, the contract containing such escalation clause shall continue in effect according to its terms as though this subsection had not been enacted.

(f) In regulating the rates and charges of a natural-gas company, the Commission shall allow as an operating expense of such natural-gas company, for natural gas produced by it, the reasonable market price of such natural gas at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced, and for gas purchased from an affiliate, the amount paid to such affiliate for such gas up to but not in excess of the reasonable market price of such natural gas at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced.

(g) For the purpose of this section 5, a person shall be held to be an affiliate of a natural-gas company if such person controls, is controlled by, or is under common control with, such natural-gas company.

[(b)] (*h*) The Commission upon its own motion, or upon the request of any State commission, whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transportation of natural gas by a natural-gas company in cases where the Commission has no authority to establish a rate governing the transportation or sale of such natural gas.

* * * * * * *

EXTENSION OF FACILITIES; ABANDONMENT OF SERVICE

SEC. 7. (a) * * *

* * * * * * *

(e) Except in the cases governed by the provisos contained in subsection (c) of this section, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation, sale, service, construction, extension, or acquisition covered by the application, if it is found that the applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Act and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied. The Commission shall have the power to attach to the issuance of the certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require. *Notwithstanding the foregoing provisions of this subsection, in passing upon an application for a certificate which is supported by a natural gas purchase contract, the Commission shall consider whether the price to be paid for such natural gas is the reasonable market price thereof at the point at which the gas is to be delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced, considering, among other things, whether such market price has been competitively arrived at, the effect of the contract upon the assurance of supply, and the reasonableness of the provisions of the contract as they relate to existing or future prices.*

APPENDIX III

REPORT OF FEDERAL POWER COMMISSION ON H. R. 4560 AND H. R. 4675 AND RELATED BILLS TO AMEND THE NATURAL GAS ACT

FEDERAL POWER COMMISSION,
Washington 25, March 21, 1955.

Hon. PERCY J. PRIEST,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington 25, D. C.

DEAR CHAIRMAN PRIEST: A number of bills to amend the Natural Gas Act have been introduced, including H. R. 4560 and H. R. 4675, and we have been advised that the House Committee on Interstate and Foreign Commerce will hold hearings on all these measures on March 22, 1955. Time has not permitted us to submit an exhaustive analysis of each of these bills. We are herewith submitting our views on the basic proposition which is inherent in H. R. 4560 and H. R. 4675.

The members of the Federal Power Commission consider that, as an arm of the legislative branch of the Federal Government, its first responsibility has been, and is, to construe, administer, and apply the several acts under which the Commission functions in strict accordance with the congressional intent.

Because of its close association with the legislative considerations and events preceding the enactment of the Natural Gas Act and its singular interest in and relationship to the act thereafter, this Commission has felt itself peculiarly able to interpret the intent of Congress with respect thereto. Thus, when in about 2 years after the passage of the act there was presented to it for decision the first case involving the issue, namely *Columbian Fuel Corporation* (Docket No. G–143, June 29, 1940, 2 F. P. C. 200), the Commission (with one member dissenting) had no difficulty in choosing between an interpretation of its authority based upon its so recent knowledge and experience and a purely legalistic rationalization of a much broader jurisdiction. It was then, and it continued to be, the

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Commission's conviction that it was not the intention of the Congress to subject to regulation under the Natural Gas Act all persons whose only sales of natural gas in interstate commerce are made during, or as an incident to and immediately upon completion of, such person's production and gathering of said natural gas and who are not otherwise subject to the jurisdiction of the Commission.

It was then, and it continued to be, the opinion of the Commission that in the act Congress had carefully and deliberately restricted the powers of the Commission so as to prohibit the exercise of authority over the production and gathering of natural gas including sales of gas made as an incident to such production and gathering. Even then we recognized that, because of the interrelationship between the natural gas and oil industries, to make regulation of producers and gatherers of natural gas effective would require statutory authority of much wider scope than that afforded by the Natural Gas Act. The course of the Commission thereafter has been completely consistent with that view.

However, because of apparent doubts in the minds of many as to the position of the courts on the question, in 1947, following the Supreme Court's decision in the *Interstate Natural Gas Company, Inc.* (331 U. S. 682), the Commission unanimously (Commissioners Draper, Olds, Smith, and Wimberly) urged the enactment of legislation, H. R. 4099, the so-called Priest bill, in the 80th Congress to reaffirm what to it was the clear congressional intent. Soon thereafter the Commission reiterated its position in its Order No. 139. Although that order was subsequently revoked, no decision of the Commission inconsistent with its position in the *Columbian Fuel* case, supra, has ever been issued. Thus, when the question was again presented to us *In the Matter of Phillips Petroleum Company* (10 F. P. C. 246 (1951)), having found that Phillips was an independent producer of natural gas, that the sales involved were sales in interstate commerce of natural gas for resale for ultimate public consumption, and that such sales were made after the completion of production and gathering, but that they were incidental to production and gathering, the Commission found and concluded that such sales were excluded from the operation of the Natural Gas Act.

But, as you are aware, upon review the United States Supreme Court refused to concur in the Commission's conclusion. That Court's decision in the *Phillips* case, supra, rendered on June 7, 1954, held that the Federal Power Commission must exercise jurisdiction over companies (even though not otherwise natural gas companies), who are engaged in the sale in interstate commerce of natural gas for resale made after the completion of production and gathering, whether or not incidental thereto. In the light of that decision, it has become the duty of the Federal Power Commission to include such independent producers within the scope of its regulation.

Consequently, when we received the mandate from the Court in the *Phillips* case, we issued an order prescribing regulations governing the filing of rate schedules and applications for certificates of public convenience and necessity by producers and gatherers of natural gas which sell gas in interstate commerce for resale and since those rules have become effective we have undertaken to bring under our regulation the thousands of companies which are so engaged. As of February 28, 1955, 5,673 certificate applications and 10,042 rate filings had been submitted to the Commission by so-called independent producers.

Our experience with the application of the provisions of the Natural Gas Act to such producers and gatherers has demonstrated the difficulties which are involved. Many suits have been filed to test the validity of such rules, and it is clear that the Commission may expect to be involved for many years in legal proceedings on those and numerous other questions which have arisen and which will arise. However, we have not yet reached the point of really coming to grips with all the detailed problems which are involved.

The question remains, however, whether the Supreme Court's decision in the *Phillips* case, supra, reflects the true public interest, or whether legislation amendatory to the Natural Gas Act is needed for that purpose. It is the considered opinion of the majority of this Commission that legislation should be enacted which will exempt from the operations of the Natural Gas Act independent producers and gatherers of natural gas who sell gas at wholesale to pipeline companies engaged in the transportation and sale in interstate commerce of natural gas for resale, but who do not themselves engage in the interstate transportation or subsequent sale of such gas.

It is our understanding that H. R. 4560 and H. R. 4675 are intended to accomplish that purpose, and upon that basis we recommend passage of such legislation. We support this proposed legislation because we firmly believe that such legislation will in the long run result in the greatest good to the largest number of people of this country.

We shall endeavor to state the reason for our belief as briefly as possible.

The production of crude oil and its products, which include natural gas, is essentially a mining operation. When the crude oil reaches the surface of the earth and is thus reduced to possession it is treated as a commodity in all respects similar to coal, iron, copper, and other products of the mine. No reason can be seen why natural gas should be so classified and thus regulated while leaving coal or oil completely free of regulation. If one of those fuels is to be subjected to regulation, they all should be.

It is obvious that, if the use of an original cost rate base method of pricing natural gas results in fixing the price of natural gas at a price lower than the equivalent price of other fuels, the natural gas will, if it remains available for interstate commerce, inevitably drive competing fuels from the markets, and thus hasten the exhaustion of this irreplaceable natural resource.

We are firmly convinced, from every aspect of public interest and particularly that of national defense, that Congress should not single out natural gas as the only one among those fuels over which an artificial ceiling should be placed.

If it be true that the business of producing natural gas is a service which is not competitive, and is a monopoly, or at least has many monopolistic characteristics, as does the electric industry, the telephone industry, and the gas transmission and distribution industries, then we would readily agree that the gas production industry should be regulated. Even then, however, we believe that the effect of such regulation on the oil and coal industries would be a matter of grave concern and something that would have to be taken into consideration in fixing gas producers' prices.

We have heard no demand that the oil production industry should be regulated as a public utility, and do not understand why natural gas production should be so regulated, and oil production should remain unregulated.

Public utility regulation controls monopolies, but at the same time it must necessarily protect them, and it supersedes to a great extent, if not completely, the factor of competition. Such regulation has never been able to supply the incentive for economy which adequate competition provides in unregulated industries.

Before all the advantages of competition are discarded, it should be definitely ascertained that competition in the natural gas industry is inadequate, and cannot be made adequate by any legal means. We are of the opinion that the gas-producing industry does not have the characteristics of public utilities which must and should be monopolies, and is the type of industry in which competition may flourish, and that any lack of competition or any unfair competition, if any, should and can be dealt with by proper application of our antitrust laws.

In recent years there has been a tremendous increase in demand by domestic customers for the relatively cheap and yet clean and highly efficient fuel, natural gas. At the same time, the evolution of industrial techniques has also created constantly increasing markets for this fuel. Natural gas is now served or authorized to be served in every State of the Union except Vermont. In 1953, some 55¼ billion therms of natural and mixed gas were sold to nearly 24 million customers of gas utilities in the United States. There has resulted from the conjuncture of those economic factors some increase in the price of natural gas from the producer to the pipeline company—in 1953 the average price paid by natural-gas companies for gas purchased from others was 9.1 cents per thousand cubic feet—and this, despite the fact that proven reserves of natural gas have continued to increase at a more rapid rate than annual production. Proved recoverable natural-gas reserves have risen from 147.8 trillion Mcf at the end of 1945 to 211.7 trillion Mcf at the end of 1954. In 1954, however, the increase in reserves was vastly smaller than during any previous year for which reliable estimates are available.

There is good reason to believe, however, that even prior to the *Phillips* decision, large amounts of natural gas chiefly produced by oil companies in conjunction with their production of oil, their primary interest, had been withheld from the market served by interstate pipeline companies because of the uncertainty of the law and, to them, the risk of regulation. We believe that the passage of the proposed bill would release large amounts of gas to consumer markets in interstate commerce and at the same time, as has been indicated, provide sufficient restraint upon the price of such gas as to eliminate the danger of exorbitant rates. In fact the release of such gas would itself, we believe, act in great measure as such a restraint.

It would permit also, it is believed, the execution of contracts between producer and pipeline company which would assure to the producer reasonable adjustments in the price of his product over a period of time sufficient to justify the expenditure

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of the large sums of money required for pipeline projects. Without such long-term contracts such projects could not be financed on favorable terms, nor would the Commission feel justified in authorizing their construction and operation. On the other hand, we have serious doubts whether, facing the prospect of continuous regulation of their rates, possibly on a cost basis, many producers not presently selling their gas in interstate commerce, and having available other large intrastate markets, would be willing to enter into such long-term contracts.

We are aware, also, that the availability of large quantities of gas which have been withheld by the producers from interstate markets because of the threat of that type of limitation on prices has resulted, and will, we believe, continue to result in the establishment in the areas where natural gas is produced, in preference to other areas, of petrochemical and other plants using large volumes of natural gas, as well as the movement of industries from points outside of and remote from them into areas in which such intrastate gas is available. It is certainly not beyond the bounds of reason that, without some legislation such as that here proposed, remote domestic and other natural gas consumers may find themselves facing, not only a diminishing supply of such gas, but the fact that some of the industries upon which the economy of their communities depend may have removed from their midst.

In the process of ratemaking the Commission, prior to its decision *In the Matter of Panhandle Eastern Pipe Line Company* (Opinion No. 269, issued April 15, 1954), had treated the producing facilities of the pipeline company in the same manner as all of its other facilities; namely, as a part of the net investment rate base to which was applied a reasonable return. That treatment resulted in indefensible discrimination between the pipeline company and the independent producer from which the pipeline company had purchased part of its required supply. In its opinion in the *Panhandle* case, supra, the Commission pointed to the decline of Panhandle's own production from 52.4 percent of its sales in 1942 to 22.6 percent in 1952, and explained why it is in the public interest for pipeline systems to have production of their own, rather than being wholly dependent upon purchases from nonaffiliated producers (Opinion No. 269, mimeographed edition, pp. 31–35). Similarly, in 1940 eight major pipelines produced more than 47 percent of the natural gas they transported and sold, whereas in 1952 only 18½ percent of their total requirements were produced by 15 major systems then operating in interstate commerce. It had resulted, as was inevitable, in the disposal by some pipeline companies of such properties and the avoidance by others of the ownership and operation of gas-producing properties and facilities. Furthermore, the treatment had given scant attention to the economic aspect of the problem involved in the gas supply or the long-run economic consequences of the application of that treatment. We believe that the proposed legislation would clearly sanction the course which we there took, would result in equal treatment of producers of gas, whether pipeline companies or independent producers, would encourage the ownership and operation by pipeline companies of their own producing and gathering properties, and would definitely and conclusively contribute to the soundness and the security of the sources of gas supply, and the maintenance of adequate service. Those results would, inevitably, redound to the benefit of the domestic, as well as other customers, and, it is our belief, would achieve in the long run lower rates for natural gas. While we are interested in reasonable rates, we must be equally concerned with the financial stability of the utilities under our jurisdiction, the safety of the investments which have been made in them, and, of equal or greater importance, the continued maintenance of adequate gas service to all of the ultimate consumers who have invested many millions of dollars in gas furnaces and other gas-using equipment. Residential, commercial, and industrial consumers throughout the United States have come to rely increasingly upon this premium fuel, which in 1920 provided less than 4 percent of our total energy requirements, as compared with over 23 percent in 1953.

Only time can tell just what effect Federal regulation of rates charged by producers and gatherers, for gas which they sell in interstate commerce, will have upon the exploration and discovery of natural gas. It has been generally recognized that regulation to effectuate the conservation of gas and oil as natural resources is a function which should be performed by the several States involved.

In the *Interstate* case to which reference has been made, the Supreme Court stated that the jurisdiction of the Commission under the Natural Gas Act does not attach where rate regulation by the Commission would be inconsistent or a substantial interference with the exercise by the State of its regulatory function. In our decision in the *Phillips* case, supra, we found that our regulation of sales made in the process of production and gathering would, by its very nature, be

inconsistent or constitute a substantial interference with such regulation of producers and gatherers by the States. But the answer of the Court to that finding was "that the jurisdiction of the Federal Power Commission was not intended to vary from State to State, depending upon the degree of State regulation and State opposition to Federal control."

The fact remains that the fixing of rates of producers for gas sold in interstate commerce for resale will inevitably conflict with the recognized power of the States to regulate producers for purposes of conservation. While the latter process must, under such circumstances, yield to the authority of the Federal Government, the effect upon the exploration and development of natural gas resources must be, it is believed, far reaching.

We believe that a sound fuel policy is essential to a robust and expanding internal economy and to the successful development of the national defense. We believe that no sound fuel policy can be erected upon such discrimination as presently exists against natural gas and in favor of other competitive fuels. We believe further that such a policy requires the exploration and development of our oil and natural gas resources against a background of free competitive enterprise restricted only by appropriate State conservation regulation. Consequently, we believe that the Federal Government should not undertake the control or the regulation of rates of those engaged in the production, gathering, processing or the selling of natural gas prior to its entry into an interstate transmission pipeline; and that the Natural Gas Act should be amended accordingly.

Commissioner Draper does not concur in this report.

Respectfully submitted.

FEDERAL POWER COMMISSION,
By JEROME KUYKENDALL, *Chairman.*

APPENDIX IV

SUPREME COURT OF THE UNITED STATES

Nos. 280, 281 and 418.—October Term, 1953.

280 PHILLIPS PETROLEUM COMPANY, PETITIONER, *v.* STATE OF WISCONSIN, ET AL.
281 STATE OF TEXAS, ET AL., PETITIONERS, *v.* STATE OF WISCONSIN, ET AL.
418 FEDERAL POWER COMMISSION, PETITIONER, *v.* STATE OF WISCONSIN, PUBLIC SERVICE COMMISSION OF WISCONSIN, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

[June 7, 1954.]

MR. JUSTICE MINTON delivered the opinion of the Court.

These cases present a common question concerning the jurisdiction of the Federal Power Commission over the rates charged by a natural-gas producer and gatherer in the sale in interstate commerce of such gas for resale. All three cases are an outgrowth of the same proceeding before the Power Commission and involve the same facts and issues.

The Phillips Petroleum Company [1] is a large integrated oil company which also engages in the production, gathering, processing, and sale of natural gas. We are here concerned only with the natural-gas operations. Phillips is known as an "independent" natural-gas producer in that it does not engage in the interstate transmission of gas from the producing fields to consumer markets and is not affiliated with any interstate natural-gas pipeline company. As revealed by the record before us, however, Phillips does sell natural gas to five interstate pipeline transmission companies which transport and resell the gas to consumers and local distributing companies in fourteen states.

Approximately 50% of this gas is produced by Phillips, and the remainder is purchased from other producers. A substantial part is casinghead gas—*i. e.*, produced in connection with the production of oil. The gas flows from the producing wells, in most instances at well pressure, through a network of converging pipelines of progressively larger size to one of twelve processing plants, where extractable products and impurities are removed. Of the nine such networks of pipelines involved in these cases, five are located entirely in Texas, one

[1] Hereinafter referred to as Phillips.

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in Oklahoma, one in New Mexico, and two extend into both Texas and Oklahoma. After processing is completed, the gas flows from the processing plant through an outlet pipe, of varying lengths up to a few hundred feet, to a delivery point where the gas is sold and delivered to an interstate pipeline company. The gas then continues its flow through the interstate pipeline system until delivered in other states.

The Federal Power Commission, on October 28, 1948, instituted an investigation to determine whether Phillips is a natural-gas company within the jurisdiction of the Commission, and, if so, whether its natural-gas rates are unjust or unreasonable. In extensive hearings before an examiner, the facts described above were developed, as well as much additional information. An intermediate decision having been dispensed with, the Commission issued an opinion and order in which it held that Phillips is not a "natural-gas company" within the meaning of that term as used in the Natural Gas Act,[2] and therefore is not within the Commission's jurisdiction over rates.[3] Consequently, the Commission did not proceed to investigate the reasonableness of the rates charged by Phillips. On appeals, the decision of the Commission was reversed by the Court of Appeals for the District of Columbia, one judge dissenting. 92 U. S. App. D. C. 284, 205 F. 2d 706. We granted certiorari. 346 U. S. 934–935.

The Power Commission is authorized by § 4 of the Natural Gas Act to regulate the "rates and charges made, demanded, or received by any natural-gas company for or in connection with the transportation or sale of natural gas subject to the jurisdiction of the Commission . . . ." "Natural-gas company" is defined by § 2 (6) of the Act to mean "a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale." The jurisdiction of the Commission is set forth in § 1 (b) as follows:

> "The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas."

Petitioners admit that Phillips engages in "the sale in interstate commerce of natural gas for resale," as, of course, they must. *Interstate Natural Gas Co.* v. *Federal Power Commission*, 331 U. S. 682, 687–689; cf. *Michigan-Wisconsin Pipe Line Co.* v. *Calvert*, 347 U. S. 157, 166–168. They contend, however, that the affirmative grant of jurisdiction over such sales in the first clause of § 1 (b) is limited by the negative second clause of the section. In particular, the contention is made that the sales by Phillips are a part of the "production or gathering of natural gas" to which the Commission's jurisdiction expressly does not extend.

We do not agree. In our view, the statutory language, the pertinent legislative history, and the past decisions of this Court all support the conclusion of the Court of Appeals that Phillips is a "natural-gas company" within the meaning of that term as defined in the Natural Gas Act, and that its sales in interstate commerce of natural gas for resale are subject to the jurisdiction of and regulation by the Federal Power Commission.

The Commission found that Phillips' sales are part of the production and gathering process, or are "at least an exempt incident thereof."[4] This determination appears to have been based primarily on the Commission's reading of legislative history and its interpretation of certain decisions of this Court. Also, there is some testimony in the record to the effect that the meaning of "gathering" commonly accepted in the natural-gas industry comprehends the sales incident to the physical activity of collecting and processing the gas. Petitioners contend that the Commission's finding has a reasonable basis in law and is supported by substantial evidence of record and therefore should be accepted by the courts, particularly since the Commission has "consistently" interpreted the Act as not conferring jurisdiction over companies such as Phillips.[5] See *Gray* v. *Powell*, 314

[2] 52 Stat. 821, as amended, 15 U. S. C. § 717 *et seq.*

[3] 10 F. P. C. 246. One Commissioner concurred in the decision and one dissented.

[4] 10 F. P. C. 246, 278.

[5] The consistency of the Commission in this regard may be questioned. Compare: Columbian Fuel Corp., 2 F. P. C. 200, with *Interstate Natural Gas Co.*, 3 F. P. C. 416; Brief for Federal Power Commission, *Interstate Natural Gas Co.* v. *Federal Power Commission*, 156 F. 2d 949, with Brief for Federal Power Commission, *Interstate Natural Gas Co.* v. *Federal Power Commission*, 331 U. S. 682; Federal Power Commission Order No. 139, 12 Fed. Reg. 5585, with Federal Power Commission Order No. 154, 15 Fed. Reg. 4633. See Scanlan, Administrative Abnegation in the Face of Congressional Coercion: The Interstate Natural Gas Company Affair, 23 Notre Dame Law. 173; Note, 59 Yale L. J. 1468, 1479–1484. And, for that matter, even consistent error is still error.

U. S. 402; *Labor Board* v. *Hearst Publications, Inc.*, 322 U. S. 111. We are of the opinion, however, that the finding is without adequate basis in law, and that production and gathering, in the sense that those terms are used in § 1 (b), end before the sales by Phillips occur.

In *Federal Power Commission* v. *Panhandle Eastern Pipe Line Co.*, 337 U. S. 498, 505, we observed that the "natural and clear meaning" of the phrase "production or gathering of natural gas" is that it encompasses "the producing properties and gathering facilities of a natural-gas company." Similarly, in *Colorado Interstate Gas Co.* v. *Federal Power Commission*, 324 U. S. 581, 598, we stated that "[t]ransportation and sale do not include production or gathering," and indicated that the "production or gathering" exemption applies to the physical activities, facilities, and properties used in the production and gathering of natural gas. *Id.*, at 602–603. See also *Federal Power Commission* v. *Hope Natural Gas Co.*, 320 U. S. 591, 612–615; *Peoples Natural Gas Co.* v. *Federal Power Commission*, 75 U. S. App. D. C. 235, 127 F. 2d 153; cf. *United States* v. *Public Utilities Commission*, 345 U. S. 295, 307–311.[6]

Even more directly in point is our decision in *Interstate Natural Gas Co.* v. *Federal Power Commission*, 331 U. S. 682. The Interstate Company produced or purchased natural gas which it in turn sold and delivered to three interstate pipeline companies, all the activities occurring within the same state. We noted that "[e]xceptions to the primary grant of jurisdiction in the section [1 (b)] are to be strictly construed," [7] *id.*, at 690–691, and held that § 1 (b) conferred jurisdiction over such sales on the Federal Power Commission, stating:

> "Petitioner asserts . . . that the sales to the three pipe-line companies are a part of the gathering process and consequently not within the Commission's power of regulation. This basic contention has given rise to a great many subsidiary questions such as whether the sales were made from petitioner's 'gathering' lines or from petitioner's 'transmission' lines and whether the gathering process continued to the points of sale or was, as the Commission found, completed at some point prior to surrender of custody and passage of title. We have found it unnecessary to resolve those issues. The gas moved by petitioner to the points of sale consisted of gas produced from petitioner's wells commingled with that produced and gathered by other companies and introduced into petitioner's pipe-line system during the course of the movement. By the time the sales are consummated, nothing further in the gathering process remains to be done. We have held that these sales are in interstate commerce. It cannot be doubted that their regulation is predominantly a matter of national, as contrasted to local concern. All the gas sold in these transactions is destined for consumption in States other than Louisiana. Unreasonable charges exacted at this stage of the interstate movement become perpetuated in large part in fixed items of costs which must be covered by rates charged subsequent purchasers of the gas, including the ultimate consumer. It was to avoid such situations that the Natural Gas Act was passed." *Id.*, at 692–693.

Petitioners attempt to distinguish the *Interstate* case on the grounds that the Interstate Company transported the gas in its pipelines after completion of gathering and before sale, and that the Interstate Company was affiliated with an interstate pipeline company and therefore subject to Commission jurisdiction in any event. This Court, however, refused to rely on such refinements [8] and instead based its decision in *Interstate* on the broader ground that sales in interstate commerce for resale by producers to interstate pipeline companies do not come within the "production or gathering" exemption.

The *Interstate* case is also said to be distinguishable in that it did not involve an asserted conflict with state regulation, and federal control was not opposed by

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[6] Referring to the taking of natural gas by purchasing interstate pipeline companies at the outlet of processing plants, we recently observed that the pipeline companies obviously "are not engaged in 'gathering gas' within the meaning of that term in its ordinary usage. . . ." *Michigan-Wisconsin Pipe Line Co.* v. *Calvert*, 347 U. S. 157, 164.

[7] The committee reports on the bill enacted as the Natural Gas Act, H. R. 6586, 75th Cong., 1st Sess., reveal that a construction of the "production or gathering" exemption which would substantially limit the affirmative grant of jurisdiction to the Commission was not contemplated. After quoting the exemptive clause of § 1 (b), the House Report states that:

"The quoted words are not actually necessary, as the matters specified therein could not be said fairly to be covered by the language affirmatively stating the jurisdicton of the Commission, but similar language was in previous bills, and, rather than invite the contention, however unfounded, that the elimination of the negative language would broaden the scope of the act, the committee has included it in this bill." H. R. Rep. No. 709, 75th Cong., 1st Sess. 3.

The Senate Report adopted and reprinted the House Report on the bill. S. Rep. No. 1162, 75th Cong., 1st Sess.

[8] Despite the fact that they were urged by the Commission as a basis for decision. Brief for Federal Power Commission, *Interstate Natural Gas Co.* v. *Federal Power Commission*, 331 U. S. 682.

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the state authorities, while in the instant cases there are said to be conflicting state regulations, and federal jurisdiction is vigorously opposed by the producing states. The short answer to this contention is that the jurisdiction of the Federal Power Commission was not intended to vary from state to state, depending upon the degree of state regulation and of state opposition to federal control. We expressly rejected any implication to the contrary, in the *Interstate* case. 331 U. S., at 691–692. See *Federal Power Commission* v. *Hope Natural Gas Co., supra,* at 607–615.

The cases discussed above supply a ready answer to the determination of the Commission and also to petitioners' suggestion that "production or gathering" should be construed to mean the "business" of production and gathering, with the sale of the product considered as an integral part of such "business." We see no reason to depart from our previous decisions, especially since they are consistent with the language and legislative history of the Natural Gas Act.

In general, petitioners contend that Congress intended to regulate only the interstate pipeline companies since certain alleged excesses of those companies were the evil which brought about the legislation. If such were the case, we have difficulty in perceiving why the Commission's jurisdiction over the transportation *or* sale for resale in interstate commerce of natural gas is granted in the disjunctive. It would have sufficed to give the Commission jurisdiction over only those natural-gas companies that engage in "transportation" or "transportation *and* sale for resale" in interstate commerce, if only interstate pipeline companies were intended to be covered.[9] See *Federal Power Commission* v. *East Ohio Gas Co.*, 338 U. S. 464, 468.

Rather, we believe that the legislative history indicates a congressional intent to give the Commission jurisdiction over the rates of all wholesales of natural gas in interstate commerce, whether by a pipeline company or not and whether occurring before, during, or after transmission by an interstate pipeline company.[10] There can be no dispute that the overriding congressional purpose was to plug the "gap" in regulation of natural-gas companies resulting from judicial decisions prohibiting, on federal constitutional grounds, state regulation of many of the interstate commerce aspects of the natural-gas business.[11] A significant part of this gap was created by cases[12] holding that "the regulation of wholesale rates of gas and electric energy moving in interstate commerce is beyond the constitutional powers of the States." *Interstate Natural Gas Co.* v. *Federal Power Commission, supra,* at 689. The committee reports on the bill that became the Natural Gas Act specifically referred to two of these cases and to the necessity

[9] Just such wording was suggested to and rejected by the House Committee considering enactment of the Natural Gas Act, by the Chairman of the State of New York Department of Public Service, Public Service Commission. Hearings before House Committee on Interstate and Foreign Commerce on H. R. 4008, 75th Cong., 1st Sess. 146–147.

An earlier bill, H. R. 11662, 74th Cong., 2d Sess., would have limited the jurisdiction of the Power Commission to "the transportation of natural gas in high-pressure mains in interstate commerce and to natural-gas companies engaged in such transportation . . . ." Much of the legislative history advanced in support of petitioners' position was developed in connection with this bill, including the testimony of Dozier A. DeVane, Solicitor of the Federal Power Commission. Because of the much different jurisdictional provision of H. R. 11662, such testimony has little relevance here.

[10] The bill on which were held the hearings leading to the passage of the Natural Gas Act, H. R. 4008, 75th Cong., 1st Sess., as introduced provided, in § 1 (b), for Commission jurisdiction over the sale of natural gas in interstate commerce "for resale to the public." Similarly, "natural-gas company" was defined, in § 2 (5), as including a person engaged in the sale of natural gas in interstate commerce "for resale to the public." The General Solicitor of the National Association of Railroad and Utilities Commissioners suggested that the language be changed in a manner almost identical to that contained in the Natural Gas Act. Referring to the proposed changes, he commented that:

"Another is designed to make certain that the bill will apply to all intercompany sales of natural gas at wholesale, even though the sale be from one company to another company which will resell to another corporation before the gas is finally sold to the public." Hearings before House Committee on Interstate and Foreign Commerce on H. R. 4008, 75th Cong., 1st Sess. 22.

See also *id.*, at 141–143.

[11] *Federal Power Commission* v. *East Ohio Gas Co.*, 338 U. S. 464, 472–473; *Federal Power Commission* v. *Panhandle Eastern Pipe Line Co.*, 337 U. S. 498, 502–504; *Panhandle Eastern Pipe Line Co.* v. *Public Service Commission*, 332 U. S. 507, 514–521; *Interstate Natural Gas Co.* v. *Federal Power Commission*, 331 U. S. 682, 689–693; *Colorado Interstate Gas Co.* v. *Federal Power Commission*, 324 U. S. 581, 599–600; *Federal Power Commission* v. *Hope Natural Gas Co.*, 320 U. S. 591, 609–610; *Illinois Natural Gas Co.* v. *Central Illinois Public Service Co.*, 314 U. S. 498, 506–508.

[12] *Missouri* v. *Kansas Natural Gas Co.*, 265 U. S. 298; *Public Utilities Commission* v. *Attleboro Steam & Electric Co.*, 273 U. S. 83; *State Corporation Commission* v. *Wichita Gas Co.*, 290 U. S. 561. Cf. *Dahnke-Walker Milling Co.* v. *Bondurant*, 257 U. S. 282; *Lemke* v. *Farmers Grain Co.*, 258 U. S. 50; *Shafer* v. *Farmers Grain Co.*, 268 U. S. 189. And see *Jersey Central Power & Light Co.* v. *Federal Power Commission*, 319 U. S. 61, 69.

of federal regulation to occupy the hiatus created by them.[13] Thus, we are satisfied that Congress sought to regulate wholesales of natural gas occurring at both ends of the interstate transmission systems.

Petitioners cite our recent decisions in *Cities Service Gas Co.* v. *Peerless Oil & Gas Co.*, 340 U. S. 179, and *Phillips Petroleum Co.* v. *Oklahoma*, 340 U. S. 190, as authority for the proposition that the states may regulate the sales in question here and, hence, that such sales are not within the gap which the Natural Gas Act was intended to fill. Those cases upheld as constitutional state *minimum* price orders, justified as conservation measures, applying to sales of natural gas in interstate commerce. But it is well settled that the gap referred to is that thought to exist at the time the Natural Gas Act was passed, and the jurisdiction of the Commission is not affected by subsequent decisions of this Court which have somewhat loosened the constitutional restrictions on state activities affecting interstate commerce, in the absence of conflicting federal regulation. *Illinois Natural Gas Co.* v. *Central Illinois Public Service Co.*, 314 U. S. 498, 508; *Federal Power Commission* v. *East Ohio Gas Co.*, *supra*, at 472. The Federal Power Commission did not participate in the *Cities Service* and *Phillips Petroleum* cases, the appellants there did not assert a possible conflict with federal authority under the Natural Gas Act, and consequently we expressly refused to consider at that time "[w]hether the Gas Act authorizes the Power Commission to set field prices on sales by independent producers, or leaves that function to the states . . . ." 340 U. S., at 188–189.

Regulation of the sales in interstate commerce for resale made by a so-called independent natural-gas producer is not essentially different from regulation of such sales when made by an affiliate of an interstate pipeline company. In both cases, the rates charged may have a direct and substantial effect on the price paid by the ultimate consumers. Protection of consumers against exploitation at the hands of natural-gas companies was the primary aim of the Natural Gas Act. *Federal Power Commission* v. *Hope Natural Gas Co.*, *supra*, at 610. Attempts to weaken this protection by amendatory legislation exempting independent natural-gas producers from Federal regulation have repeatedly failed,[14] and we refuse to achieve the same result by a strained interpretation of the existing statutory language.

The judgment is

Affirmed.

MR. JUSTICE JACKSON took no part in the consideration or decision of these cases.

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[13] "The States have, of course, for many years regulated sales of natural gas to consumers in intrastate transactions. The States have also been able to regulate sales to consumers even though such sales are in interstate commerce, such sales being considered local in character and in the absence of congressional prohibition subject to State regulation. . . . There is no intention in enacting the present legislation to disturb the States in their exercise of such jurisdiction. However, in the case of sales for resale, or so-called wholesale sales, in interstate commerce (for example, sales by producing companies to distributing companies) the legal situation is different. Such transactions have been considered to be not local in character and, even in the absence of Congressional action, not subject to State regulation. (See *Missouri* v. *Kansas Gas Co.* (1924), 265 U. S. 298, and *Public Service Commission* v. *Attleboro Steam & Electric Co.* (1927), 273 U. S. 83.) The basic purpose of the present legislation is to occupy this field in which the Supreme Court has held that the States may not act." H. R. Rep. No. 709, 75th Cong., 1st Sess. 1–2; S. Rep. No. 1162, 75th Cong., 1st Sess. 1–2.

[14] Among the bills introduced in recent Congresses to restrict the existing jurisdiction of the Federal Power Commission over natural-gas producers are: H. R. 4051, 80th Cong., 1st Sess.; H. R. 4099, 80th Cong., 1st Sess.; H. R. 1758, 81st Cong., 1st Sess.; and S. 1498, 81st Cong., 1st Sess.

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SUPREME COURT OF THE UNITED STATES

Nos. 280, 281 and 418.—October Term, 1953.

280 PHILLIPS PETROLUEM COMPANY, PETITIONER, *v.* STATE OF WISCONSIN, ET AL.

281 STATE OF TEXAS, ET AL., PETITIONERS, *v.* STATE OF WISCONSIN, ET AL.

418 FEDERAL POWER COMMISSION, PETITIONER, *v.* STATE OF WISCONSIN, PUBLIC SERVICE COMMISSION OF WISCONSIN, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

[June 7, 1954.]

MR. JUSTICE FRANKFURTER, concurring.

While I join the opinion of the Court, one consideration leading to the Court's conclusion is for me so decisive that I deem it appropriate to give it emphasis.

Section 1 (b) is not to be construed on its face. It comes to us with an authoritative gloss. We must construe it as though Congress had, in words, added to the present text of § 1 (b) some such language as the following:

> "However, since sales for resale, or so-called 'wholesale sales,' in interstate commerce are not local in character and are constitutionally not subject to State regulation, see *Missouri* v. *Kansas Gas Co.*, 265 U. S. 298, and *Public Utilities Commission* v. *Attleboro Steam & Electric Co.*, 273 U. S. 83, the basic purpose of the legislation is to occupy this field in which the States may not act."

The section must be read with such an interpolation because Congress said specifically that the Natural Gas Act was designed to cover the situations which the two cited cases held to be outside the competence of State regulation. H. R. Rep. No. 709, 75th Cong., 1st Sess. 1–2; S. Rep. No. 1162, 75th Cong., 1st Sess. 1–2.[1]

To be sure, the *Kansas Gas* case excluded the business of piping gas by a supply company in one State to distributing companies in another; and the *Attleboro* case involved the transmission of electric current by a producing company which took it from one State to the boundary of another State and there sold it to a distributing company for resale in the other State. In this case, the sale by Phillips was made in Texas to interstate pipeline transmission companies which transported the gas for resale to distributing companies and consumers in other States. But this fact—that Phillips itself did not pipe the gas to the State boundary or directly into another State—does not in the slightest alter the constitutional applicability of the *Attleboro* doctrine to the situation before us. The fact that the continuous transmission is not by facilities of Phillips but by the facilities of Phillips connecting with pipelines transmitting gas into other States does not change the interstate character of the transaction. For that reason, the decision in *Attleboro*, 273 U. S., at 86, relying on *Peoples Gas Co.* v. *Public Service Commission*, 270 U. S. 550, barred State regulation.

It may well be that if the problem in the *Attleboro* case came before the Court today, the constitutional doctrine there laid down would not be found compelling. This is immaterial. Congress did not leave it to the determination of this Court whether an *Attleboro* situation is subject to State regulation. It wrote the doctrine of the *Attleboro* case into the Natural Gas Act and said in effect that an *Attleboro* situation was to be taken over by Federal regulation and was not to be left to the fluctuation of adjudications under the Commerce Clause.

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[1] "The States have, of course, for many years regulated sales of natural gas to consumers in intrastate transactions. The States have also been able to regulate sales to consumers even though such sales are in interstate commerce, such sales being considered local in character and in the absence of congressional prohibition subject to State regulation. (See *Pennsylvania Gas Co.* v. *Public Service Commission* (1920), 252 U. S. 23.) There is no intention in enacting the present legislation to disturb the States in their exercise of such jurisdiction. However, in the case of sales for resale, or so-called wholesale sales, in interstate commerce (for example, sales by producing companies to distributing companies) the legal situation is different. Such transactions have been considered to be not local in character and, even in the absence of Congressional action, not subject to State regulation. (See *Missouri* v. *Kansas Gas Co.* (1924), 265 U. S. 298, and *Public Service Commission* v. *Attleboro Steam & Electric Co.* (1927) 273 U. S. 83.) The basic purpose of the present legislation is to occupy this field in which the Supreme Court has held that the States may not act." H. R. Rep. No. 709 ,75th Cong., 1st Sess. 1-2.

SUPREME COURT OF THE UNITED STATES

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ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

[June 7, 1954.]

Mr. JUSTICE DOUGLAS, dissenting.

The question is whether sales of natural gas by an *independent producer* at the mouth of an interstate pipeline are subject to regulation by the Federal Power Commission under the Natural Gas Act of 1938. This is a question the Court has never decided. It is indeed one on which we expressly reserved decision in *Interstate Natural Gas Co.* v. *Federal Power Commission*, 331 U. S. 682, 690, n. 18.

There is much to be said from the national point of view for regulating sales at both ends of these interstate pipelines. The power of Congress to do so is unquestioned. Whether it did so by the Natural Gas Act of 1938 is a political and legal controversy that has raged in the Commission and in the Congress for some years. The question is not free from doubts. For while § 1 (b) of the Act makes the regulatory provisions applicable "to the sale in interstate commerce of natural gas for resale for ultimate public consumption," it also makes them inapplicable "to the production or gathering of natural gas."

The sale by this independent producer is a "sale in interstate commerce . . . for resale." It is also an integral part of "the production or gathering of natural gas," as MR. JUSTICE CLARK makes clear in his opinion, for it is the end phase of the producing and gathering process. So we must make a choice; and the choice is not an easy one.

The legislative history is not helpful. Congress was concerned with interstate pipelines, not with *independent producers*, as the thoughtful Comment in 59 Yale L. J. 1468 points out. If one can judge by the reports of the Federal Trade Commission that preceded the Act (S. Doc. No. 92, Pt. 84–A, 70th Cong., 1st Sess.), and the hearings and debates in Congress on the bills that evolved into the Act, little or no consideration was given to the need of regulating the sales by *independent producers* to the pipelines. The gap to be filled was that existing before the pipelines were brought under regulation—sales to distributors along the pipelines, as the opinion of MR. JUSTICE CLARK demonstrates.

That was the view of the Commission in a decision that followed on the heels of the Act. *Columbian Fuel Corp.*, 2 F. P. C. 200, 207. That decision exempted from regulation an independent producer to whom Phillips is in all material respects comparable. It was a decision made by men intimately familiar with the background and history of the Act—Leland Olds, Basil Manly, Claude L. Draper, and Clyde L. Seavey. One Commissioner, John W. Scott, dissented. That construction of the Act by the Commission has persisted from that time (see *Billings Gas Co.*, 2 F. P. C. 288; *The Fin-Ker Oil & Gas Production Co.*, 6 F. P. C. 92; *Tennessee Gas & Transmission Co.*, 6 F. P. C. 98) down to its decision in the present case. 10 F. P. C. 246.

That construction by the Commission, especially since it was contemporaneous (*United States* v. *American Trucking Assns.*, 310 U. S. 534, 539) and long continued (*Federal Power Commission* v. *Panhandle Eastern Pipe Line Co.*, 337 U. S. 498, 513), is entitled to great weight. Other obtuse questions no less legal in character than the terms "production or gathering" of gas have been entrusted to the administrative agency charged with the regulation. See *Shields* v. *Utah Idaho Central R. Co.*, 305 U. S. 177; *Sunshine Anthracite Coal Co.* v. *Adkins*, 310 U. S. 381; *Gray* v. *Powell*, 314 U. S. 402.

There are practical considerations which buttress that position and lead me to conclude that we should not reverse the Commission in the present case. If Phillips' sales can be regulated, then the Commission can set a rate base for Phillips. A rate base for Phillips must of necessity include all of Phillips' producing and gathering properties; and supervision over its operating expenses necessarily includes supervision over its producing and gathering expenses. We

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held in *Colorado Interstate Gas Co.* v. *Federal Power Commission*, 324 U. S. 581, that the Commission's control extended that far in the case of an interstate pipeline company which owned producing and gathering properties. And so it had to be, if regulation of the pipelines that owned their own gas supplies was to be effective. But an understanding of what regulation entails should lead to a different result in this case. The fastening of rate regulation on this *independent producer* brings "the production or gathering of natural gas" under effective federal control, in spite of the fact that Congress has made that phase of the natural gas business exempt from regulation. The effect is certain to be profound. The price at which the *independent producer* can sell his gas determines the price he is able or willing to pay for it (if he buys from other wells). The sales price determines his profits. And his profits and the profits of all the other gatherers, whose gas moves into the interstate pipelines, have profound effects on the rate of production, the methods of production, the old wells that are continued in production, the new ones explored, etc. Regulating the price at which the *independent producer* can sell his gas regulates his business in the most vital way any business can be regulated. That regulation largely nullifies the exemption granted by Congress.

There is much to be said in terms of policy for the position of Commissioner Scott, who dissented the first time the Commission ruled it had no jurisdiction over these sales. But the history and language of the Act are against it. If that ground is to be taken, the battle should be won in Congress, not here. Regulation of the business of producing and gathering natural gas involves considerations of which we know little and with which we are not competent to deal.

SUPREME COURT OF THE UNITED STATES

Nos. 280, 281 and 418.—October Term, 1953.

280 PHILLIPS PETROLEUM COMPANY, PETITIONER, *v.* STATE OF WISCONSIN, ET AL.

281 STATE OF TEXAS, ET AL., PETITIONERS, *v.* STATE OF WISCONSIN, ET AL.

418 FEDERAL POWER COMMISSION, PETITIONER, *v.* STATE OF WISCONSIN, PUBLIC SERVICE COMMISSION OF WISCONSIN, ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

[June 7, 1954.]

MR. JUSTICE CLARK, with whom MR. JUSTICE BURTON concurs, dissenting.

Perhaps Congress should have included control over the production and gathering of natural gas among the powers it gave the Federal Power Commission in the Natural Gas Act, but this Congress did not do. On the contrary, Congress provided that the Act "shall not apply . . . to the production or gathering of natural gas." Language could not express a clearer command, but the majority renders this language almost entirely nugatory by holding that the rates charged by a wholly independent producer and gatherer may be regulated by the Federal Power Commission. Nor does the Court stop there, for in the sweep of the opinion "the rates of *all wholesales* of natural gas in interstate commerce, whether by a pipeline company or not and whether occurring before, during, or after transmission by an interstate pipeline company" are covered under the Act. P. —, *supra*. [Emphasis supplied.] On its face, this language brings every gas operator, from the smallest producer to the largest pipeline, under federal regulatory control. In so doing, the Court acts contrary to the intention of the Congress, the understanding of the states, and that of the Federal Power Commission itself. The Federal Power Commission is thereby thrust into the regulatory domain traditionally reserved to the states.

The natural gas industry, like ancient Gaul, is divided into three parts. These parts are production and gathering, interstate transmission by pipeline, and distribution to consumers by local distribution companies. A business unit may perform more than one of these functions—typically, production and gathering in addition to interstate transmission. But Phillips' natural gas operations are confined exclusively to the first part—production and gathering.

It has no interstate transmission or high-pressure trunk lines and does not sell to distribution companies; and it does not, of course, distribute to the ultimate consumer. Its nine gathering systems merely bring the gas from its own and other producers' wells to its central plants in the producing fields so it can be rendered usable as fuel. Since there are no facilities for storage, the amount of gas, other than casinghead,[1] produced and gathered each day depends on the day-to-day demands of the interstate pipelines, which in turn depend on weather and other conditions in the consuming areas. Gas wells are cut on and off as the market demand for the gas requires. Gathering takes place by well pressure forcing the gas through numerous small pipes connecting each well with the central gathering plant or processing station. It is there that the gas first comes to a common "header" and is processed for use as fuel. The processing of the gas at this central gathering plant is necessary to remove hydrocarbons, hydrogen sulphide and other foreign elements in order to permit its use as fuel. The plant operates only while the wells are producing. All of Phillips' operations, including the acreage from which the wells produce the gas, the wells themselves, the lines that connect with each of them and run to the central plant, form a closely knit unit that is entirely local to the field involved. After processing, the gas is immediately delivered to the interstate pipelines under long-term sales contracts.

The Commission found that "[t]hough technically consummated in interstate commerce, these sales [by Phillips to the pipelines] are made 'during the course of production and gathering,' " and that the sales "are so closely connected with the local incidents of [production and gathering] as to render rate regulation by this Commission inconsistent or a substantial interference with the exercise by the affected States of their regulatory functions." We believe that this finding is correct and that it should be approved by the Court.

If there be any doubt that Congress thought the "production and gathering" exemption saved Phillips' sales from Federal Power Commission regulation, the Act's legislative history removes it. The Solicitor of the Commission, Mr. Dozier DeVane, at hearings in connection with a predecessor of the bill that finally became the Natural Gas Act, testified that the Federal Power Commission would have no jurisdiction over the rates for natural gas "that are paid in the gathering field." Hearings before Subcommittee of Committee on Interstate and Foreign Commerce on H. R. 11662, 74th Cong., 2d Sess., p. 28 (1937). The bill, he said, "does not attempt to regulate the gathering rates or the gathering business." *Id.*, 34. See also, *id.*, 42–43. The bill about which Mr. DeVane testified has been described as "substantially similar to the Natural Gas Act," and his views have been treated as authoritative by this Court. *Federal Power Commission* v. *Panhandle Eastern Pipe Line Co.*, 337 U. S. 498, 505, n. 7 (1949). See also *Federal Power Commission* v. *East Ohio Gas Co.*, 338 U. S. 464, 472, n. 12 (1950). In the face of this as well as the Federal Power Commission's adherence to the DeVane views ever since its first cases on the subject, *Columbian Fuel Corp.*, 2 F. P. C. 200 (1940), *Billings Gas Co.*, 2 F. P. C. 288 (1940), and in the absence of any specific matter in the Act's legislative history refuting the DeVane views, the Court today erroneously finds that "DeVane's testimony has little relevance here." P.——, n. 9, *supra.*

There is no dispute that Congress intended the Natural Gas Act to close the "gap" created by decisions of this Court barring state regulation of certain interstate gas sales. The legislative history of the Act refers to two decisions. *Missouri* v. *Kansas Natural Gas Co.*, 265 U. S. 298 (1924); *Public Utilities Commission* v. *Attleboro Steam & Electric Co.*, 273 U. S. 83 (1927). See H. R. Rep. No. 709, 75th Cong., 1st Sess., pp. 1–2 (1937). But these cases had nothing to do with sales to interestate pipelines by wholly independent, unintegrated, and unaffiliated producers and gatherers, such as Phillips. Neither of the companies involved in those cases was engaged exclusively in production and gathering; both were producing and transportation companies, Kansas of natural gas, Attleboro of electricity; both Kansas and Attleboro sold to distributing companies in the course of interstate transmission. Thus, when the House Report, *id.*, 1–2, expressed the Act's aim to regulate wholesales such as "sales by producing companies to distributing companies," and immediately thereafter cited the *Kansas* and *Attleboro* cases, the Report's unmistakable reference was to sales by an integrated "producer-

[1] Casinghead gas is produced with oil and furnishes the pressure under which the latter is brought to the surface. The gas cannot be shut off without closing down the oil production and it therefore is produced, regardless of demand, since the primary recovery is oil. If there are no available purchasers the gas is flared (burned). In some fields as much as one-third of the casinghead gas is still flared since no market is immediately available. Sound conservation practice dictates that, whenever possible, casinghead gas be used to satisfy demand before natural gas wells are turned on.

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pipeline" to the local distributor. It could not refer to an independent producer and gatherer because, first, such an independent never sells to local distributors and, secondly, the two cited cases do not support a reference to such independents. That Congress aimed at abuses resulting in the "gap" at the end of the transmission process by integrated and unintegrated pipelines and not at abuses prior to transmission is clear from the final report of the Federal Trade Commission to the Senate on malpractices in the natural gas industry. S. Doc. No. 92, 70th Cong., 1st Sess. (1935). This report was the stimulus for Federal intervention in the industry. The Federal Trade Commission outlined the abuses in the industry which the "gap" made the states powerless to prevent; the abuses were by monopolistically situated pipelines which gouged the consumer by charging local distribution companies unreasonable rates. The Federal Trade Commission did not find abusive pricing by independent producers and gatherers; if anything, the independents at the producing end of the pipelines were likewise the victims of monopolistic practices by the pipelines.

And our decisions have certainly indicated that the "gap" was at the distribution end of the transmission process. Thus, in *Federal Power Commission* v. *Hope Natural Gas Co.*, 320 U. S. 591 (1944), the Court observed that "the Federal Power Commission was given *no authority* over 'the production or gathering of natural gas' " and that the producing states had the power "to protect the interests of those who sell their gas to the interstate operator." *Id.*, 612–613, 614. [Emphasis supplied.] Five years later, in *Federal Power Commission* v. *Panhandle Eastern Pipe Line Co.*, *supra*, the Court said its approval of the Commission's inclusion of the cost of production and gathering facilities of an interstate pipeline in the latter's rate base "is not a precedent for regulation of any part of production or *marketing*." 337 U. S., at 506.

By today's decision, the Court restricts the phrase "production and gathering" to "the physical activities, facilities, and properties" used in production and gathering. Such a gloss strips the words of their substance. If the Congress so intended, then it left for state regulation only a mass of empty pipe, vacant processing plants and thousands of hollow wells with scarecrow derricks, monuments to this new extension of federal power. It was not so understood. The states have been for over 35 years and are now enforcing regulatory laws covering production and gathering, including *pricing*, proration of gas, ratable taking, unitization of fields, processing of casinghead gas including priority over other gases, well spacing, repressuring, abandonment of wells, marginal area development, and other devices. Everyone is fully aware of the direct relationship of price and conservation. *Federal Power Commission* v. *Panhandle Eastern Pipe Line Co.*, *supra*, at 507. And the power of the states to regulate the producer's and gatherer's prices has been upheld in this Court. *Cities Service Gas Co.* v. *Peerless Oil & Gas Co.*, 340 U. S. 179 (1950), *Phillips Petroleum Co.* v. *Oklahoma*, 340 U. S. 190 (1950). There can be no doubt, as the Commission has found, that federal regulation of production and gathering will collide and substantially interfere with and hinder the enforcement of these state regulatory measures. We cannot square this result with the House Report on this Act which states that the subsequently enacted bill "is so drawn as to complement and in no manner usurp State regulatory authority." H. R. Rep. No. 709, *supra*, at 2.

The majority rely heavily on *Interstate Natural Gas Co.* v. *Federal Power Commission*, 331 U. S. 682 (1947), to support their position. To be sure, there is language in that case which on its face seems to govern the present case. *Id.*, 692–693. But that case involved a materially different fact situation. The Interstate Gas Company was already subject to Federal Power Commission jurisdiction because of its interstate pipeline operations; and the company was affiliated with one of the pipelines to which it sold. In addition, the Court emphasized the fact that in *Interstate* no claim to state regulatory authority was made. Indeed, the Interstate Company had successfully resisted state attempts to regulate. Hence there was no possibility of conflict in that case; either the Federal Power Commission moved in or Interstate would have remained unregulated. But perhaps a more significant factual distinction in terms of the Court's reasoning in that case rests in the fact that of the total volume of gas Interstate sold, roughly 42 percent had been purchased from others who had produced *and gathered* it. This 42 percent was almost enough to supply all the needs of the three interstate pipelines to which Interstate sold. And the 42 percent, already gathered and processed, moved into and through Interstate's branch, trunk, and main trunk lines. In short, Interstate was the equivalent of a middleman between gatherers and the pipelines for almost all the gas it sold to the pipelines and performed the function of transporting the gas it purchased from

other gatherers through its branch, trunk, and main trunk lines. Phillips performs no such middleman or transmission function. In addition, the late Chief Justice Vinson in that case specifically stated that: "We express no opinion as to the validity of the jurisdictional tests employed by the Commission in these cases [*Columbian* and *Billings, supra*]." 331 U. S., at 690–691, n. 18. Since it was in those cases that the Federal Power Commission established the policy of declining jurisdiction over the rates charged by wholly independent producers and gatherers, it is difficult to see how *Interstate* can control the present case.

If we look to *Interstate* for guidance, we would do better to focus on the following words of the late Chief Justice:

> "Clearly, among the powers thus reserved to the States is the power to regulate the physical production and gathering of natural gas in the interests of conservation or of any other consideration of legitimate local concern. It was the intention of Congress to give the States full freedom in these matters. Thus, where sales, though technically consummated in interstate commerce, are made during the course of production and gathering and are so closely connected with the local incidents of that process as to render rate regulation by the Federal Power Commission inconsistent or a substantial interference with the exercise by the State of its regulatory functions, the jurisdiction of the Federal Power Commission does not attach." 331 U. S., at 690.

Even a cursory examination of Phillips' operations reveals how completely local they are and how incidental to them are its sales to the pipelines. Moreover, federal regulation of these sales means an inevitable clash with a complex of state regulatory action, including minimum pricing. These were matters found by the Federal Power Commission in language obviously patterned after the above quotation. The clear import of the cited words is that Federal Power Commission jurisdiction "does not attach" in such a situation.

In the words of MR. JUSTICE JACKSON, we believe "that observance of good faith with the states requires that we interpret this Act as it was represented at the time they urged its enactment, as its terms read, and as we have, until today, declared it, *viz.*, to supplement but not to supplant state regulation." *Federal Power Commission* v. *East Ohio Gas Co., supra*, at 490.

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SEPARATE MAJORITY VIEWS

While we concur with the majority of the committee that H. R. 6645 should be enacted, we feel that the problem which needs to be resolved could have been met solely by the enactment of the language which comprises section 2 of the bill. The problem giving rise to the need for the legislation has come about by the decision of the Supreme Court in the Phillips case, as is set forth in the majority report. Section 2, of itself, answers the difficulty arising from the Phillips decision.

We feel that the decision of the Supreme Court in the case of *Phillips Petroleum Company* v. *the State of Wisconsin*, if permitted to stand unchallenged, conceivably could form the precedent for Federal invasion of every field of private enterprise now under the exclusive jurisdiction of the several States.

We look upon this decision as a dangerous departure from the basic principles supporting the dual sovereignty form of government, and a policy which in the hands of some irresponsible court might serve in the future as the instrument to be used in the dissolution of State lines and the concentration of governmental powers in the Federal Government. We recognize the proven fact that the key to totalitarianism and its attendant loss of individual freedoms and rights is a strong central government.

We believe that the highly competitive conditions existing today in the natural-gas producing industry have not been shown to be such that Federal regulation as proposed in section 3 is necessary further to protect the consumer. Such proposed and unneeded regulation, like the effect of the Phillips decision, creates a serious jeopardy to free enterprise, gives additional impetus to centralization of government, and constitutes flagrant violation of States rights.

JOHN BELL WILLIAMS,
Member of Congress.
WALTER ROGERS,
Member of Congress.

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APPENDIX II

No. 1.—*Concentration ratios of natural gas production*

	Percent
1st 4 companies	17
1st 8 companies	28
1st 20 companies	46
1st 50 companies	66
1st 100 companies	78

No. 2.—*Concentration ratios of natural gas production by areas*

	Total Nation	7 Southwestern States	Texas
	Percent	*Percent*	*Percent*
1st 4 companies	17	19	21
1st 8 companies	28	30	33
1st 20 companies	46	49	55
1st 50 companies	66	69	75
1st 100 companies	78	80	85

No. 3.—*Concentration ratios in industry—Natural gas production compared with extractive industries*

[Percent]

	1st 4	1st 8	1st 20	1st 50
Copper [1]	80	91	[2]	[2]
Iron ore [3]	62	77	[2]	[2]
Lead [4]	56	70	[2]	[2]
Zinc [5]	42	60	[2]	[2]
Anthracite [6]	41	60	82	[2]
Natural gas	17	28	46	66
Bituminous [6]	16	24	37	53

[1] Yearbook American Bureau of Metal Statistics; Moody's Industrial Manual.
[2] Not available.
[3] U. S. Bureau of Mines; Federal Trade Commission, Report on Control of Iron Ore, 1952; and Bulletin of the University of Minnesota Mining Director, 1954.
[4] Yearbook American Bureau of Metal Statistics, 1953.
[5] Yearbook American Bureau of Metal Statistics, 1953; Bureau of Mines, Mineral Yearbook, 1952; and Moody's Industrial Manual, 1953.
[6] Coal Mine Directory, Keystone Coal Buyers Manual.

No. 4.—*Concentration ratios in industry, natural gas production compared with selected manufacturers*

[Percent]

	1st 4	1st 8	1st 20	1st 50
Cigarettes	90.4	99.7	----	----
Motor vehicles and parts	55.7	63.6	77.8	88.5
Steel works and rolling mills	44.7	62.8	81.1	94.2
Meatpacking, wholesale	41.3	53.6	62.5	68.8
Woolen and worsted fabrics	28.1	40.4	56.0	71.7
Natural gas production	17.0	28.0	46.0	66.0

No. 5.—*Index of retail prices of competitive fuels*

[1935-39=100]

Year	Residential heating gas	Anthracite	Bituminous coal	No. 2 fuel oil
1938	94.3	99.3	161.8	105.6
1939	94.0	98.4	101.1	96.1
1940	93.1	102.7	102.0	100.8
1941	91.5	108.5	108.2	103.4
1942	89.8	112.5	113.8	118.6
1943	89.6	119.5	118.7	128.9
1944	89.1	126.8	123.1	129.1
1945	88.4	130.7	125.7	123.3
1946	87.5	145.0	132.4	124.2
1947	88.4	157.3	156.5	148.2
1948	89.2	176.6	186.2	188.6
1949	90.4	188.7	193.1	178.8
1950	90.7	195.9	200.2	180.7
1951	91.6	214.9	204.6	191.0
1952	94.6	218.3	208.6	195.4
1953	99.6	233.4	212.9	205.5

Source: Bureau of Labor Statistics.

No. 6.—*Comparison of cost of living—all items with natural gas*

[1935-39=100]

Year	Cost of living, consumer price index	Natural gas		Manufactured gas	
		10-10.6 therms	25-30.6 therms	10-10.6 therms	25-30.6 therms
1938	100.8	98.8	98.5	100.2	98.5
1939	99.4	101.9	100.9	100.6	98.4
1940	100.2	101.7	100.8	101.4	97.8
1941	105.2	99.7	97.1	101.0	97.0
1942	116.6	98.6	96.6	100.9	96.7
1943	123.7	96.7	95.2	101.4	97.0
1944	125.7	95.1	93.5	101.5	97.0
1945	128.6	93.0	91.0	101.6	97.0
1946	139.5	88.6	84.9	102.0	97.5
1947	159.6	87.6	83.6	106.9	101.8
1948	171.9	86.4	82.5	116.1	111.9
1949	170.2	86.4	82.7	128.7	120.5
1950	171.9	84.6	84.4	124.8	120.1
1951	185.6	81.9	84.2	124.9	120.9
1952	189.8	83.5	88.0	125.7	120.1
1953	191.3	85.9	91.7	126.4	120.9

Source: Bureau of Labor Statistics.

The quantity 10-10.6 therms has been used by Bureau of Labor as representative of typical for residential cooking. The 25-30.6 represents cooking plus hot-water heating. The quantities of gas upon which quotations were secured by the Bureau of Labor Statistics did not remain constant throughout the entire time period. Hence, it is necessary to show indexes of the outer limits of the sample.

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APPENDIX III

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, matter proposed to be omitted in brackets, existing law in which no change is proposed is shown in roman):

NATURAL GAS ACT, AS AMENDED

SEC. 2. When used in this Act, unless the context otherwise requires—

(1) "Person" includes an individual or a corporation.

(2) "Corporation" includes any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, receiver or receivers, trustee or trustees of any of the foregoing, but shall not include municipalities as hereinafter defined.

(3) "Municipality" means a city, county, or other political subdivision or agency of a State.

(4) "State" means a State admitted to the Union, the District of Columbia, and any organized Territory of the United States.

(5) "Natural gas" means either natural gas unmixed, or any mixture of natural and artificial gas.

(6) "Natural-gas company" means a person engaged in the transportation of natural gas in interstate commerce, or the sale in interstate commerce of such gas for resale.

(7) "Interstate commerce" means commerce between any point in a State and any point outside thereof, or between points within the same State but through any place outside thereof, *or between any point in a State and any foreign nation,* but only insofar as such commerce takes place within the United States.

(8) "State commission" means the regulatory body of the State or municipality having jurisdiction to regulate rates and charges for the sale of natural gas to consumers within the State or municipality.

(9) "Commission" and "Commissioner" means the Federal Power Commission, and a member thereof, respectively.

(10) "Transportation of natural gas in interstate commerce" means only such transportation of natural gas in interstate commerce as occurs after the completion in or within the vicinity of the field or fields where produced of all production, gathering, processing, treating, compressing and delivering of such natural gas into the transportation facilities of a person engaged in transporting, in such transportation facilities, natural gas in interstate commerce beyond the vicinity of the field or fields where produced.

(11) "Sale in interstate commerce of natural gas for resale" means only such sale in interstate commerce of natural gas for resale as occurs after the commencement of the transportation of such natural gas in interstate commerce as defined in paragraph (10), but does not include any sale which occurs in or within the vicinity of the field or fields where produced at or prior to the commencement of such transportation in interstate commerce of the natural gas.

* * * * * * *

FIXING RATES AND CHARGES; DETERMINATION OF COST OF PRODUCTION OR TRANSPORTATION

SEC. 5. (a) Whenever the Commission, after a hearing had upon its own motion or upon complaint of any State, municipality, State commission, or gas distributing company, shall find that any rate, charge, or classification demanded, observed, charged, or collected by any natural-gas company in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, or that any rule, regulation, practice, or contract affecting such rate, charge,

or classification is unjust, unreasonable, unduly discriminatory, or preferential, the Commission shall determine the just and reasonable rate, charge, classification, rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order: *Provided, however*, That the Commission shall have no power to order any increase in any rate contained in the currently effective schedule of such natural-gas company on file with the Commission, unless such increase is in accordance with a new schedule filed by such natural-gas company; but the Commission may order a decrease where existing rates are unjust, unduly discriminatory, preferential, otherwise unlawful, or are not the lowest reasonable rates.

(b) When an increase in any rate or charge for natural gas is filed with the Commission by a natural-gas company and is based in whole or in part upon any contract, executed or renegotiated after the date this subsection takes effect, for the purchase of natural gas from a person other than an affiliate, the Commission shall determine, unless there has been a prior determination under subsection (c) of this section, whether the price at which the natural-gas company has contracted to buy such natural gas is the reasonable market price thereof at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced. After such determination, the natural-gas company shall be allowed to charge as an operating expense for natural gas purchased under the contract only such part of the contract price as does not exceed such reasonable market price. In determining the reasonable market price of natural gas under the provisions of this section 5, the Commission shall consider, among other things, whether such price has been competitively arrived at, the effect of the contract upon the assurance of supply, and the reasonableness of the provisions of the contract as they relate to existing or future prices.

(c) The Commission shall determine upon application by a natural-gas company, or may determine upon the Commission's own motion, after notice and opportunity for hearing, whether the price to be paid for natural gas under the provisions of any contract executed or renegotiated after the date this subsection takes effect is the reasonable market price thereof at the point at which the gas is to be delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced. After such determination, the natural-gas company shall be allowed to charge as an operating expense for natural gas purchased under the contract, for the purposes of rates or charges thereafter filed by it under this Act, only such part of the contract price as does not exceed such reasonable market price.

(d) When an increase in any rate or charge for natural gas, filed with the Commission by a natural-gas company after the date this subsection takes effect, is based in whole or in part on an increase in price under the provisions of an escalation clause in any contract, other than a contract to which subsection (b) applies, for the purchase of natural gas from a person other than an affiliate, the Commission shall determine whether the price as so increased is the reasonable market price of the natural gas at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced. When the Commission has made such determination, the natural-gas company may charge as an operating expense for natural gas purchased under the contract only such part of the increase in price as results in a price which does not exceed such reasonable market price. As used in this section 5, the term "escalation clause" means any provision in a contract for the purchase of natural gas the operation of which may result in an increase in the price of the natural gas sold under the contract, but such term does not include (1) any provision for increases, by specific amounts, in the price of the natural gas at definite dates in the future, or (2) any provision under which the natural-gas company agrees to reimburse the seller of the gas for any increase in taxes which may be levied upon such seller after a specified date.

(e) Whenever, in connection with an increase in the price of natural gas under the provisions of an escalation clause, the Commission, pursuant to subsection (d), has made a determination as to the reasonable market price of such natural gas, the natural-gas company shall be obligated to pay only such part of the increase in price as results in a price which does not exceed such reasonable market price; and, except as otherwise provided in this subsection, the contract containing such escalation clause shall continue in effect according to its terms as though this subsection had not been enacted. No provision of any such contract shall be construed to authorize its cancellation because of the enactment of this subsection or subsections (d) and (f).

(f) In regulating the rates and charges of a natural-gas company, the Commission shall allow as an operating expense of such natural-gas company, for natural gas produced by it, the reasonable market price of such natural gas at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced, and for gas purchased from

an affiliate, the amount paid to such affiliate for such gas up to but not in excess of the reasonable market price of such natural gas at the point at which the gas is delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced.

(g) For the purpose of this section 5, a person shall be held to be an affiliate of a natural-gas company if such person controls, is controlled by, or is under common control with, such natural-gas company.

[(b)] *(h)* The Commission upon its own motion, or upon the request of any State commission, whenever it can do so without prejudice to the efficient and proper conduct of its affairs, may investigate and determine the cost of the production or transportation of natural gas by a natural-gas company in cases where the Commission has no authority to establish a rate governing the transportation or sale of such natural gas.

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EXTENSION OF FACILITIES; ABANDONMENT OF SERVICE

SEC. 7. (a) * * *

* * * * * * *

(e) Except in the cases governed by the provisos contained in subsection (c) of this section, a certificate shall be issued to any qualified applicant therefor, authorizing the whole or any part of the operation, sale, service, construction, extension, or acquisition covered by the application, if it is found that the applicant is able and willing property to do the acts and to perform the service proposed and to conform to the provisions of the act and the requirements, rules, and regulations of the Commission thereunder, and that the proposed service, sale, operation, construction, extension, or acquisition, to the extent authorized by the certificate, is or will be required by the present or future public convenience and necessity; otherwise such application shall be denied. The Commission shall have the power to attach to the issuance of the certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require. *Notwithstanding the foregoing provisions of this subsection, in passing upon an application for a certificate which is supported by a natural gas purchase contract, the Commission shall consider whether the price to be paid for such natural gas is the reasonable market price thereof at the point at which the gas is to be delivered into the transportation facilities of the natural-gas company in or within the vicinity of the field or fields where produced, considering, among other things, whether such market price has been competitively arrived at, the effect of the contract upon the assurance of supply, and the reasonableness of the provisions of the contract as they relate to existing or future prices.*

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Calendar No. 1235

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1220

PERMITTING THE RETIREMENT OF TEMPORARY OFFICERS OF THE NAVAL SERVICE AFTER COMPLETION OF MORE THAN 20 YEARS OF ACTIVE SERVICE

JULY 28, 1955.—Ordered to be printed

Mr. RUSSELL, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 2112]

The Committee on Armed Services, to whom was referred the bill (H. R. 2112) to amend the act of February 21, 1946 (60 Stat. 26), to permit the retirement of temporary officers of the naval service after completion of more than 20 years of active service, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to authorize the retirement of temporary officers of the Regular Navy and Marine Corps in their commissioned grade after completing 20 years of active service of which at least 10 years is commissioned service.

BACKGROUND

Public Law 305 of the 79th Congress, effective February 21, 1946 (60 Stat. 26) provides that regular officers of the Navy and Marine Corps, or the Reserve components, who complete 20 years of active service, of which at least 10 years is commissioned duty, may upon application be retired. The Comptroller General in a decision dated July 22, 1952 (B–109511), held that enlisted persons serving under temporary appointments as commissioned officers are not "officers of the Regular Navy" within the meaning of section 6 of Public Law 305, and therefore not eligible for retirement under that section. The effect of this decision is to require that temporary officers retire under the laws relating to enlisted personnel. Under such laws, if they wish

who have already retired and who would qualify under the provisions of this bill after its enactment, to receive similar treatment as those retired subsequent to the effective date of this legislation.

COST OF THE BILL

The additional cost for fiscal year 1956 for section 2 of the bill, which affects only those already retired, is estimated to be $166,000.

In addition, the estimated maximum cost submitted by the Department of Defense for the bill by fiscal year is as follows:

Fiscal year	Navy	Marine Corps	Total	Fiscal year	Navy	Marine Corps	Total
1957	$4, 207, 692	$79, 000	$4, 286, 692	1963	$2, 235, 828	$98, 000	$2, 333, 828
1958	3, 920, 376	161, 000	4, 081, 376	1964	1, 984, 236	86, 000	2, 070, 236
1959	3, 570, 528	156, 000	3, 726, 528	1965	1, 482, 924	70, 000	1, 552, 924
1960	3, 278, 244	146, 000	3, 424, 244	1966	1, 033, 392	48, 000	1, 081, 392
1961	2, 970, 600	129, 000	3, 099, 600	1967	611, 640	17, 000	628, 640
1962	2, 616, 480	112, 000	2, 722, 480				

These estimates represent the maximum cost and assume that all officers eligible under the law would voluntarily make application, and that the application would be approved. The maximum costs represent the difference between the retired pay to which the officer would be entitled if he transferred in enlisted status to the Fleet Reserve prior to completing the 30 years of total service, and the cost of his retirement in his commissioned grade.

FISCAL DATA—DEPARTMENTAL RECOMMENDATION

It is estimated that the proposed legislation would cost approximately $4,500,000 in fiscal year 1957. Thereafter, the total additional cost would decrease as indicated in the table set forth earlier in this report. This legislation is a part of the Department of Defense legislative program for 1955, as indicated by the letter printed below and hereby made a part of this report. The letter indicates that the Bureau of the Budget has no objection to the departmental proposed legislation.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington, D. C., January 5, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives,
House of Representatives, Washington, D. C.

MY DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to amend the act of February 21, 1946 (60 Stat. 26), to permit the retirement of temporary officers of the naval service after completion of more than 20 years of active service.

This proposal is part of the Department of Defense legislative program for 1955 and the Bureau of the Budget has advised that there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to make temporary officers of the naval service, whose permanent status is enlisted, eligible for voluntary retirement on completion of more than 20 years of active service, at least 10 years of which is commissioned service.

to retire with less than 30 years of active duty their only alternative is to revert to their enlisted status and apply for transfer to the Fleet Reserve and draw retainer pay. Upon completion of 30 years of service, including time in the Fleet Reserve, they are then retired and advanced on the retired list up to the highest grade satisfactorily held prior to June 30, 1946.

DISCRIMINATORY NATURE OF EXISTING LAW

The exclusion of temporary officers from the privilege of retiring in their officer status after 20 years' service is discriminatory when it is considered that other classes of officers may retire in their officer grade on the basis of service which is similar to that performed by temporary officers. Such other groups include Reserve officers whose original status was enlisted, limited-duty officers, and commissioned warrant officers, including commissioned warrant officers who are serving temporarily in higher commissioned grades.

Although the temporary officer of the Navy retains his permanent enlisted or warrant status, his responsibilities, duties, and authority are appropriate to the commissioned grade in which he is serving.

The Army and Air Force have no system of awarding temporary regular appointments. In these services, however, there are large numbers of enlisted personnel who hold Reserve commissions and who have served on active duty in their commissioned status for a number of years. These officers, under present statutes, may retire in their commissioned grade after serving 20 years on active duty, of which at least 10 years is commissioned service.

EFFECT OF THE BILL

The provisions of the bill are twofold. First, section 6 of Public Law 305, 79th Congress, which authorizes voluntary retirement after 20 years of active service, including 10 years of commissioned service, for Regular and Reserve Navy and Marine Corps officers, is amended to include members of the naval service temporarily appointed to a commissioned grade, but whose permanent status is enlisted. These relate to the so-called temporary Regular officers. In addition, the bill contains language which includes within the definition of active commissioned service, all active service performed under a temporary appointment to a commissioned grade, including a commissioned warrant grade, by an officer whose permanent status is enlisted.

The bill, moreover, deletes the existing language of Public Law 305, 79th Congress, which limits the rank in which officers temporarily appointed may be retired in the highest rank held prior to June 30, 1946. The deletion of this section would permit temporary officers to retire in the highest rank satisfactorily held without regard to date. Army and Air Force officers retiring under similar circumstances may be retired in the highest rank satisfactorily held without regard to the June 30, 1946, limitation.

The second major feature of the bill contained in section 2 provides that temporary officers already retired may, upon application, be advanced on the retired list to the highest rank satisfactorily held before his transfer to the Fleet Reserve. This provision is not retroactive for pay purposes. It does, however, permit those officers

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Section 6 of the act of February 21, 1946 (60 Stat. 27), provides that "When any officer of the Regular Navy or the Regular Marine Corps or the Reserve components thereof has completed more than 20 years of active service in the Navy, Marine Corps, or Coast Guard, or the Reserve components thereof, including active duty for training, at least 10 years of which shall have been active commissioned service, he may at any time thereafter, upon his own application, in the discretion of the President, be placed upon the retired list on the 1st day of such month as the President may designate."

The Comptroller General, in a decision dated July 22, 1952 (B–109511), has held that enlisted personnel serving under temporary appointments as commissioned officers are not "officers of the Regular Navy" within the meaning of that term as used in section 6 of the act of February 21, 1946 (60 Stat. 27), and therefore are not eligible to retire under that act. The effect of this decision is to limit these temporary officers to retirement under the laws relating to enlisted personnel. Under these laws they may transfer in their enlisted status to the Fleet Reserve or Fleet Marine Corps Reserve after the completion of 20 years of active service, with further transfer to the retired list on completion of 30 years' service, including time in the Fleet Reserve or Fleet Marine Corps Reserve, and advancement to their officer rank at that time.

When section 6 of the act of February 21, 1946, was enacted there were no temporary officers who could have qualified for retirement under its provisions and the possibility at that time that any of the temporary officers would complete the required 10 years of service in commissioned grades was considered remote. Substantial numbers of temporary officers, however, have continued to serve in commissioned grades and now have the required 10 years of commissioned service. The exclusion of these temporary officers from the privilege of retiring in their officer status after 20 years' service is an inequity which has no basis in value or type of service rendered. Their treatment in respect to voluntary retirement is discriminatory when it is considered that other classes of officers may retire under the law on the basis of service which is factually similar to that of these temporary officers. Among those are Reserve officers whose original status was enlisted, limited-duty officers, and commissioned warrant officers, including commissioned warrant officers who are serving temporarily in higher commissioned grades.

The effect of this inequity will become more aggravated in the very near future. The readjustment of active-duty officer strength to meet reduced budgetary provisions will require that many of the temporary appointments will be terminated. Many of these temporary officers with more than 20 years' service will be faced with the option of serving in enlisted grades or of transferring to the Fleet Reserve or Fleet Marine Corps Reserve in a status which gives no recognition to their years of valuable service in commissioned grades.

Enactment of the proposed amendments to the act of February 21, 1946, would make those temporary officers, whose permanent status is enlisted, eligible for voluntary retirement after the completion of more than 20 years of active service, at least 10 years of which has been commissioned service, and would permit them to have the highest rank in which they satisfactorily served when placed on the retired list.

LEGISLATIVE REFERENCES

This proposal was submitted to the 83d Congress by the Department of the Navy as a part of the Department of Defense legislative program for 1954 but no further action was taken thereon.

COST AND BUDGET DATA

Enactment of this proposed legislation would result in additional cost to the Government, representing, in each individual case, the difference between retired pay in the commissioned grade to which the officer would be entitled to be retired and the retainer pay to which he would be entitled if transferred to the Fleet Reserve or Fleet Marine Reserve, for the period of time from the date of retirement to the date when he would complete 30 years' service. There are now on active duty in the Navy 3,683 and in the Marine Corps 153 temporary officers, whose permanent status is enlisted, who as of July 1, 1954, will have less than 30 years' service. No estimate can be made of the number of these officers who would apply for voluntary retirement if the proposed legislation is enacted. It is expected that necessary reductions in numbers of temporary officers on active duty can be accomplished by retirements on 30 years' service until fiscal year 1957. Assuming that all officers who must have their temporary appointments

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terminated will elect to retire in their commissioned officer grades rather than transfer to the Fleet Reserve or Fleet Marine Corps Reserve in an enlisted status, the additional cost of the enactment of this proposed legislation is estimated as follows:

(See table used elsewhere in this report.)

Sincerely yours,

C. S. THOMAS.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is printed in parallel columns the text of provisions of existing law which would be amended by the various provisions of the bill.

EXISTING LAW	THE BILL
Act of February 21, 1946 (ch. 34, 60 Stat. 26), as amended	SECTION 1. * * * That the Act of February 21, 1946 (60 Stat. 26), as amended, is further amended by—
SEC. 6. When any officer of the Regular Navy or the Regular Marine Corps or the Reserve Components thereof has completed more than twenty years of active service in the Navy, Marine Corps, or Coast Guard, or the Reserve Components thereof, including active duty for training, at least ten years of which shall have been active commissioned service, he may at any time thereafter, upon his own application, in the discretion of the President, be placed upon the retired list on the first day of such month as the President may designate.	(a) inserting after the word "thereof" where it first occurs a comma and the phrase "including any member of the naval service temporarily appointed to commissioned grade whose permanent status is enlisted,";
	(b) adding at the end of section 6 the following new sentence: "As used in this section 'active commissioned service' includes all active service performed under a temporary appointment to a commissioned grade, including a commissioned warrant grade, by an officer whose permanent status is enlisted."; and
SEC. 7. (c) The highest rank in which an officer served on or prior to June 30, 1946, or if a prisoner of war at any time during World War II, the highest rank to which an officer was temporarily appointed pursuant to the provisions of the Act approved July 24, 1941 (55 Stat. 603), is the highest rank in which the officer may be retired and upon which his retired pay may be based pursuant to this section, unless under provisions of law other than those contained within this section he is entitled to a higher rank on the retired list or to a higher retired pay, or unless at the time of retirement he is serving in a higher permanent grade or rank.	(c) deleting section 7 (c).

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Calendar No. 1236

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1221

AUTHORIZING TRAVEL AND TRANSPORTATION ALLOWANCES, AND TRANSPORTATION OF DEPENDENTS AND OF BAGGAGE AND HOUSEHOLD EFFECTS TO HOMES OF THEIR SELECTION FOR CERTAIN MEMBERS OF UNIFORMED SERVICES

JULY 28, 1955.—Ordered to be printed

Mr. RUSSELL, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 6600]

The Committee on Armed Services, to whom was referred the bill (H. R. 6600) to amend section 303 of the Career Compensation Act of 1949, to authorize travel and transportation allowances, and transportation of dependents and of baggage and household effects to the homes of their selection for certain members of the uniformed services, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the proposed legislation is to provide authority for the payment of travel and transportation allowances to all members of the uniformed services to a home of selection when (1) a member is retired for physical disability or placed on the temporary disability retired list or (2) retired for any other reason, or discharged with severance pay immediately following at least 8 years of continuous active duty.

BACKGROUND

This legislation concerns the question of certain members making a home of selection upon assuming a retired status.

The Career Compensation Act of 1949, as amended, presently authorizes the payment of travel and transportation allowances to members of the uniformed services who are ordered to a retired status. The Comptroller General has held that section 303 (a) of the Career Compensation Act provided authority only for Regular members of the uniformed services to select their homes upon retirement. The

effect of the Comptroller General's decision is that members of the Reserve components are denied the right to select their homes on retirement. Many of these officers have completed long years of active service.

Prior to the Comptroller General's decisions of September 1953 and March 1954, the Joint Travel Regulations, effective April 1, 1951, promulgated pursuant to the Career Compensation Act of 1949, provided authority for travel and transportation allowances to homes of selection on retirement for all members of the uniformed services. It was considered that the broad terms of section 303 (a) of the 1949 act authorized travel and transportation allowances to Reserve members in the same manner as had previously been authorized to members of the Regular services. A high percentage of the members of the Reserve components retired after many years of active service and, like members of the Regular services, have long ceased to have homes to which to return upon retirement, even though technically the records show that homes were designated upon entry on active duty. The Comptroller General had previously held that members of the Regular service could designate their homes of selection since such members were not regarded as having a home during their period of service. One year after retirement was the period in which Regular members were required to select their home.

EFFECT OF THE BILL

The effect of the bill is to remove the inequity, which precludes authority for Reserve officers to select their homes upon retirement. The bill provides affirmative legislative authority for travel and transportation allowances to homes of selection for all members of the uniformed services who are retired for physical disability, placed on the temporary disability retired list, or who are retired for any other reason, or discharged with severance pay immediately following at least 8 years of continuous active duty. In effect, the bill extends to all members of the uniformed services, benefits now enjoyed by Regular members with respect to receiving travel and transportation allowances to their homes of selection upon retirement.

EFFECTIVE DATE OF LEGISLATION

Section 3 of the bill provides that the act will be effective from April 1, 1951. This was the effective date of the Joint Travel Regulations which permitted members of the Reserve components to select their homes for travel and transportation purposes. This legislation would therefore validate payments made by disbursing officers to members of Reserve components pursuant to the Joint Travel Regulations.

It is also provided that no additional amount may be paid to members of uniformed services as a result of this amendatory act unless travel to such selected home was performed on or prior to April 28, 1953, or within 1 year after retirement or discharge, whichever is later. This language extends the same privileges to Reserves during the periods in question as were extended to members of the Regular components.

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FISCAL DATA—DEPARTMENTAL RECOMMENDATION

The enactment of this proposal would not result in an increase of budgetary requirements for the Department of Defense. This legislation is part of the Department of Defense legislative program for 1955 as indicated by the letter printed below and hereby made a part of this report. The departmental letter indicates that the Bureau of the Budget interposes no objections to the enactment of this legislation.

MAY 18, 1955.

Hon. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation to amend section 303 of the Career Compensation Act of 1949, to authorize travel and transportation allowances, and transportation of dependents and of baggage and household effects to the homes of their selection for certain members of the uniformed services, and for other purposes.

This proposal is a part of the Department of Defense legislative program for 1955 and the Bureau of the Budget has advised that there would be no objection to the presentation of this proposal for the consideration of the Congress. It is recommended that this proposal be enacted.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to provide authority for the payment of travel and transportation allowances to all members of the uniformed services who are retired for physical disability or placed on the temporary disability retired list; or are retired for any other reason, or are discharged with severance pay, after serving at least 8 years continuous active duty, to homes of selection in accordance with uniform administrative regulations, by amending sections 303 (a) and 303 (c) of the Career Compensation Act of 1949 (63 Stat. 813, 814; 37 U. S. C. 253). The authority for travel and transportation allowances including transportation of dependents and movement of household goods at Government expense for members of the regular services to homes of selection was contained in administrative regulations and was recognized by the Comptroller General of the United States as legally sufficient. Those regulations were based principally on the decision of the Comptroller General (4 Comp. Gen. 954; 30 id. 169) that a member of the regular service was regarded as not having a home during the period of his service and therefore was authorized to select a home to which he may perform travel thereto within a reasonable time after retirement. One year after retirement was considered as reasonable and thus the 1-year rule was established.

After the enactment of the Career Compensation Act of 1949, it was considered proper under the broad terms of section 303 (a) of that act to authorize travel and transportation allowances to Reserve members in the same manner as had previously been authorized for members of the Regular services since a high percentage of members of the Reserve components retire after many years of service and who, like members of the Regular services, have long since ceased to have homes to which to return upon retirement even though technically the records show that the homes were designated upon entry on active duty. Also it frequently happens that Reserve members retired for disability cannot, without detriment to health, live at the places listed as their homes of record. Consequently, in the Joint Travel Regulations, effective April 1, 1951, there was provided authority to select a home. These regulations were authorized to be issued under section 303 (h) of the Career Compensation Act of 1949. It was believed at the time of the promulgation of these regulations that section 303 (a) provided ample authority therefor since that section authorized regulations to be prescribed by the Secretaries concerned, without limitation in this respect, for the travel and transportation expenses of all members of the uniformed services upon separation from the service, placement on the temporary disability retired list, releases from active duty, or retirement, from the last duty station to home, or place from which ordered to active duty, and in addition authorized the respective Secretaries concerned to prescribe "the conditions under which travel and transportation allowances shall be authorized."

However, the Comptroller General of the United States in decisions (B–116568, September 21, 1953, B–116568, March 10, 1954, and B–117430, March 19, 1954) held that section 303 (a) of the Career Compensation Act of 1949 did not contain authority for promulgation of regulations which would authorize travel and transportation allowances for members of the Reserve components to their homes selected upon retirement. These decisions stated that entitlement for such allowances for a regular member appeared to have no application in the case of a reservist who had a home from which he was ordered to active duty and to which he may be expected to return upon release from active duty, whether by retirement or otherwise. The effect of these decisions, depriving members of the Reserve components of the services of the right to select their homes on retirement in the same manner as members of the Regular services, works a distinct hardship on them and is highly discriminatory, especially as to those with many years of active service. The proposed legislation is designed to correct this inequity by providing affirmative authority for travel and transportation allowances including transportation for dependents and movement of household effects at Government expense for members of the uniformed services who are retired for physical disability or placed on the temporary disability retired list; or are retired for any other reason, or are discharged with severance pay, immediately following at least 8 years of continuous active duty, to homes of selection in accordance with uniform administrative regulations.

The proposed legislation also would validate payments in the accounts of disbursing officers made to or on behalf of members of such Reserve components for travel and transportation allowances to homes of selection since April 1, 1951, the effective date of the Joint Travel Regulations, by amending sections 303 (a) and 303 (c) of the Career Compensation Act of 1949 to make them retroactive to April 1, 1951.

COST AND BUDGET DATA

Enactment of this proposal would result in no increase in the budgetary requirements of the Department of Defense.

Sincerely yours,

ROBERT T. STEVENS,
Secretary of the Army.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the proposal are shown as follows (proposed new matter is in italic).

CAREER COMPENSATION ACT OF 1949 (63 STAT. 813)

TITLE III

PROVISIONS RELATING TO ALLOWANCES

* * * * * *

TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 303. (a) Under regulations prescribed by the Secretaries concerned, members of the uniformed services shall be entitled to receive travel and transportation allowances for travel performed or to be performed under competent orders (1) upon a change of permanent station, or otherwise, or when away from their designated posts of duty regardless of the length of time away from such designated posts of duty, (2) upon appointment, call to active duty, enlistment, or induction, from home or from the place from which ordered to active duty to first station, and (3) upon separation from the service, placement upon the temporary disability retired list, release from active duty, or retirement, from last duty station to home or to the place from which ordered to active duty, regardless of the fact that such member may not be a member of the uniformed services at the time his travel is performed or is to be performed. *Under uniform regulations prescribed by the Secretaries concerned, a member of the uniformed services who—*

(1) is retired for physical disability or placed upon the temporary disability retired list; or

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(2) is retired for any other reason, or is discharged with severance pay, immediately following at least eight years of continuous active duty (no single break therein of more than ninety days);

may select his home for the purposes of the travel and transportation allowances payable under this subsection. Allowances above authorized may be paid without regard to the comparative costs of the various modes of transportation. The respective Secretaries concerned may prescribe (1) the conditions under which travel and transportation allowances shall be authorized, including advance payments thereof, and (2) the allowances for types of travel not to exceed amounts herein authorized. The travel and transportation allowances which shall be authorized for each type of travel shall be limited to one of the following: (1) Transportation in kind, reimbursement therefor, or a monetary allowance in lieu of cost of transportation at a rate not in excess of 7 cents per mile based on distances established or to be established over the shortest usually traveled routes, in accordance with mileage tables prepared by the Chief of Finance of the Department of the Army under the direction of the Secretary of the Army, (2) transportation in kind, reimbursement therefor, or a monetary allowance as provided in (1) of this sentence, plus a per diem in lieu of subsistence not to exceed $9 per day, or (3) for travel within the continental limits of the United States a mileage allowance of not exceeding 10 cents per mile based on distances established or to be established pursuant to existing law: *Provided*, That the travel and transportation allowances under conditions authorized herein for such members may be paid on separation from the service, or release from active duty, regardless of whether or not such member performs the travel involved.

(b) * * *

(c) In addition to the allowances authorized above, under such conditions and limitations and for such ranks, grades, or ratings and to and from such locations as may be prescribed by the Secretaries concerned, members of the uniformed services when ordered to make a change of permanent station shall be entitled to transportation in kind for dependents or to reimbursement therefor, or to a monetary allowance in lieu of such transportation in kind at a rate to be prescribed not in excess of the rate authorized in subsection (a) of this section, and in connection with a change of station (whether temporary or permanent), to transportation (including packing, crating, drayage, temporary storage, and unpacking) of baggage and household effects, or reimbursement therefor, to and from such locations and within such weight allowances as may be prescribed by the Secretaries, without regard to the comparative costs of the various modes of transportation. When orders directing a change of permanant station for the member concerned have not been issued, or when such orders have been issued but are of such a nature that they cannot be used as authority for transportation of dependents and baggage and household effects, the Secretaries concerned may, nevertheless, authorize the movement of the dependents and baggage and household effects and prescribe transportation in kind, reimbursement therefor, or a monetary allowance in lieu thereof as authorized in this subsection, as the case may be, only under unusual or emergency circumstances, including but not limited to, (1) circumstances when duty is being performed by such member at places designated by the Secretary concerned as within zones from which dependents should be evacuated, (2) circumstances when orders which direct temporary duty travel of such member do not provide for return to the permanent station or do not specify or imply any limit to the period of absence from the permanent station, or (3) circumstances when such members are serving on permanent duty at stations outside the continental United States or in Alaska, or on sea duty. The Secretary concerned shall define the term "permanent station," which definition shall include, but not be limited to, a shore station or the home yard or home port of the vessel to which a member of the uniformed services entitled to receive basic pay may be ordered, and a duly authorized change in home yard or home port of such vessel shall be deemed a change of permanent station. Under regulations prescribed by the Secretary concerned, transportation for dependents and baggage and household effects are authorized upon the death of a member of the uniformed services while entitled to receive basic pay pursuant to section 201 (e) of this Act. *Under uniform regulations prescribed by the Secretaries concerned, a member of the uniformed services who—*

(1) is retired for physical disability or placed on the temporary disability retired list; or

(2) is retired for any other reason, or is discharged with severance pay, immediately following at least eight years of continuous active duty (no single break therein of more than ninety days);

is entitled to transportation for his dependents and for his baggage and household effects to the home selected for allowance purposes under subsection (a) of this section.

* * * * * * *

H. R. 6600, 84TH CONGRESS (THE BILL)

SEC. 3. This Act shall be effective from April 1, 1951. No additional amount may be paid to members of reserve components as a result of enactment of this amendatory Act unless travel to such selected home be performed on or prior to April 28, 1953, or within one year after such retirement or discharge, whichever is later.

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Calendar No. 1237

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1222

PROVIDING FOR THE CONVEYANCE OF CAMP LIVINGSTON, CAMP BEAUREGARD, AND ESLER FIELD, LA., TO THE STATE OF LOUISIANA

JULY 28, 1955.—Ordered to be printed

Mr. STENNIS, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 637]

The Committee on Armed Services, to whom was referred the bill (S. 637) to provide for the conveyance of Camp Livingston, Camp Beauregard, and Esler Field, La., to the State of Louisiana, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

AMENDMENT

Section 1 of the bill is amended to read as follows:

That the Secretary of the Army is authorized and directed, if he determines that the real property comprising Camp Livingston, Camp Beauregard and Esler Field, or any part thereof, is available for conveyance to the State of Louisiana for the training and support of the National Guard of Louisiana, to convey all the right, title, and interest of the United States in such property, together with improvements thereon and appurtenances thereunto belonging, to the State of Louisiana by quitclaim deed, without monetary consideration therefor, but upon condition that it shall be used for the aforesaid purposes and if such real property shall ever cease to be used for such purposes, all the right, title and interest in and to such real property shall revert to and become the property of the United States which shall have the immediate right of entry thereon, and to be further subject to the reservation by the United States of all mineral rights, including oil and gas; the right of reentry and use by the United States in the event of need therefor during a national emergency; and such other reservations, restrictions, terms, and conditions as the Secretary determines to be necessary to properly protect the interests of the United States.

EXPLANATION OF THE AMENDMENT

The amendment was recommended by the Department of the Army, on behalf of the Department of Defense, in order to continue the availability of this property for utilization in connection with large-scale maneuvers in Louisiana this year. Camp Beauregard is presently available for transfer and it is anticipated that Camp Livingston and Esler Field may be available for transfer to the State at the conclusion of the maneuvers planned later this year.

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PURPOSE OF THE BILL

The purpose of the bill, as amended, is to authorize the conveyance of Camp Livingston, Camp Beauregard, and Esler Field, La., to the State of Louisiana to be used for the training and support of the National Guard. The authority for the conveyance is subject to a determination by the Secretary of the Army that the property is available for conveyance.

NECESSITY FOR LEGISLATION OF THIS TYPE

In the exercise of its constitutional power to regulate the disposal of Federal property, the Congress by general legislation has provided for maximum utilization of federally owned property and has provided generally and specifically for disposal of surplus property. The principal statute on this subject is the Federal Property and Administrative Services Act, Public Law 152, 81st Congress, as amended. Provisions have been made for transfers of surplus Government-owned property, both real and personal, to States, political subdivisions, and tax-supported or nonprofit institutions for health and educational purposes. Section 203 (k) of the Federal Property and Administrative Services Act, as amended, in effect authorizes these transfers without consideration by providing public benefit allowances of up to 100 percent. Provisions are made for transfers, without compensation to the Government, of surplus realty for historic monument purposes (50 U. S. C. App. 1622h). States or political subdivisions are given a public benefit allowance of 50 percent of the fair value with respect to transfers of surplus realty for park and recreational use (Public Law 616, 80th Cong.). Statutory provisions are made for transfer without monetary consideration of surplus, Government-owned airport property to States or political subdivisions for public airport use (50 U. S. C. 1622).

No general provision of law now in effect authorizes the transfer of surplus Government-owned real property to States for National Guard purposes. Nevertheless, the Congress has by separate law authorized many conveyances of federally owned realty to the various States to be used for National Guard purposes. With rare exceptions, these laws have provided that the transfers pursuant thereto would be subject to reservations of Federal use during national emergencies and were conditioned on automatic reversion in the event of nonuse for National Guard purposes.

During the 83d Congress six real property conveyances were authorized for National Guard purposes by separate acts. During the current session of the 84th Congress, at least three such bills have become law and others are in various stages of enactment.

INFORMATION ON THE PROPERTY TO BE CONVEYED

The Beauregard National Guard Target Range, near Alexandria, La., was established by the War Department during the period 1928–31 by the acquisition of approximately 8,298.86 acres for an artillery range, 305.83 acres for a rifle range, and 161.60 acres for the expansion of National Guard training facilities at the 260-acre State-owned Camp Beauregard adjoining the 161.60-acre tract and the rifle range. In 1941–42, the lands comprising the Beauregard National Guard

Target Range provided the basis for the establishment of three separate but closely integrated War Department installations serving a vital need during World War II. The 467.43 acres comprising the rifle range and the Camp Beauregard tract were combined with the State-owned Camp Beauregard Military Reservation. Approximately 1,595.47 of the 8,298.86 acres acquired for the target range were used for the establishment of Esler Army Airfield and 6,703.39 acres were used for the establishment of Camp Livingston.

In expanding the area set aside for the establishment of Camp Livingston as an infantry training camp, the War Department obtained the use of 5,711.32 acres of land within the Kisatchie National Forest and acquired fee title to approximately 6,000 acres of land contiguous to the two areas. The installation was developed for military use at a cost of approximately $34 million. In 1947, approximately 2,549.44 acres of the national forest lands, on which only minor military improvements were made, were relinquished and the remainder of the national forest lands, which were substantially improved and modified by the War Department, was reported to the War Assets Administration for disposition as surplus property. Since 1948, the National Guard of Louisiana has been using 400 acres of the national forest lands and the approximately 11,456.10 acres of land acquired by the War Department which would be affected by the enactment of S. 637. An additional area embracing 1,044.43 acres belonging to the Department of the Army is no longer required by the Department but approximately 322.48 acres are needed by the Department of the Navy and the Department of the Air Force is studying its requirements for the remaining 721.95 acres.

The 467.43 acres of Government-owned land adjacent to the State-owned Camp Beauregard were developed for military use during World War II at a cost of approximately $311,000. Since 1947, the property has been used by the National Guard of Louisiana as State maintenance headquarters for repairing and servicing National Guard vehicles and as a general supply depot.

In establishing Esler Army Airfield in 1941, the War Department acquired approximately 395.96 acres of land adjoining the 1,595.47 acres formerly a part of Beauregard National Guard Target Range and adapted and developed the area for military airfield use at a cost of approximately $3,290,000. In 1944, avigation easements over 382.18 acres of land adjoining the airfield were acquired in order to eliminate flight hazards. Early in 1946, the entire installation was reported to the War Assets Administration for disposition as surplus property. However, late in 1946, the property was withdrawn from surplus by the War Department and the National Guard of Louisiana has used it since 1947 for the training and support of the National Guard, including storage of supplies and equipment.

RESERVATIONS AND RESTRICTIONS

The bill reserves to the United States all mineral rights, including gas and oil.

In the event of need for this property during a national emergency the United States reserves a right of reentry and use.

If the State of Louisiana ceases to use the property for the training and support of the National Guard of Louisiana, the title to the property would immediately revert to and revest in the United States.

The Secretary of the Army is authorized to impose such other conditions and terms as he determines to be necessary properly to protect the interest of the United States.

DEPARTMENTAL RECOMMENDATIONS—COST DATA

Enactment of this bill, as amended, will not involve the expenditure of any Department of Defense funds.

The Department of the Army, on behalf of the Department of Defense, is not opposed to the enactment of this bill as it has been amended. The views of the Department of Defense are set forth in a letter from the Secretary of the Army that is printed below and hereby made a part of this report.

DEPARTMENT OF THE ARMY,
Washington, D. C., June 29, 1955.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to S. 637, 84th Congress, a bill to provide for the conveyance of Camp Livingston, Camp Beauregard, and Esler Field, La., to the State of Louisiana, and for other purposes. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The Department of the Army on behalf of the Department of Defense is not opposed to the enactment of this bill but recommends that it be amended in the manner set forth in this report.

The purpose of the bill is indicated in its title.

The Beauregard National Guard Target Range, near Alexandria, La., was established by the War Department during the period 1928–31 by the acquisition of approximately 8,298.86 acres for an artillery range, 305.83 acres for a rifle range, and 161.60 acres for the expansion of National Guard training facilities at the 260-acre State-owned Camp Beauregard adjoining the 161.60-acre tract and the rifle range. In 1941–42, the lands comprising the Beauregard National Guard Target Range provided the basis for the establishment of three separate, but closely integrated, War Department installations serving a vital need during World War II. The 467.43 acres comprising the rifle range and the Camp Beauregard tract were combined with the State-owned Camp Beauregard Military Reservation. Approximately 1,595.47 of the 8,298.86 acres acquired for the target range were used for the establishment of Esler Army Airfield and 6,703.39 acres were used for the establishment of Camp Livingston.

In expanding the area set aside for the establishment of Camp Livingston as an infantry training camp, the War Department obtained the use of 5,711.32 acres of land within the Kisatchie National Forest and acquired fee title to approximately 6,000 acres of land contiguous to the two areas. The installation was developed for military use at a cost of approximately $34 million. In 1947, approximately 2,549.44 acres of the national forest lands, on which only minor military improvements were made, were relinquished and the remainder of the national forest lands, which were substantially improved and modified by the War Department, was reported to the War Assets Administration for disposition as surplus property. Since 1948, the National Guard of Louisiana has been using 400 acres of the national forest lands and the approximately 11,456.10 acres of land acquired by the War Department which would be affected by the enactment of S. 637. An additional area embracing 1,044.43 acres belonging to the Department of the Army is no longer required by the Department but approximately 322.48 acres are needed by the Department of the Navy and the Department of the Air Force is studying its requirements for the remaining 721.95 acres.

The 467.43 acres of Government-owned land adjacent to the State-owned Camp Beauregard were developed for military use during World War II at a cost of approximately $311,000. Since 1947, the property has been used by the National Guard of Louisiana as State maintenance headquarters for repairing and servicing National Guard vehicles and as a general supply depot.

In establishing Esler Army Airfield in 1941, the War Department acquired approximately 395.96 acres of land adjoining the 1,595.47 acres formerly a part

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of Beauregard National Guard Target Range and adapted and developed the area for military airfield use at a cost of approximately $3,290,000. In 1944, avigation easements over 382.18 acres of land adjoining the airfield were acquired in order to eliminate flight hazards. Early in 1946, the entire installation was reported to the War Assets Administration for disposition as surplus property. However, late in 1946, the property was withdrawn from surplus by the War Department and the National Guard of Louisiana has used it since 1947 for the training and support of the National Guard, including storage of supplies and equipment.

The Department of the Army is developing plans for large-scale field maneuvers in Louisiana this year and proposes to utilize Government-owned land, including Camp Livingston and Esler Field, to the maximum extent feasible in satisfying real estate requirements for these maneuvers. In view thereof, the Department of the Army would prefer that the scope of this bill be limited to Camp Beauregard and that consideration of legislation providing for the transfer of Camp Livingston and Esler Field to the State of Louisiana be deferred until the 2d session of the 84th Congress. If this recommendation is favorably considered, it is recommended that the enclosed draft bill be substituted for S. 637. If, on the other hand, it is determined that action should be taken at this time, to provide for the conveyance of the three installations to the State of Louisiana, it is recommended that section 1 of S. 637 be amended to read as follows:

"That the Secretary of the Army is authorized and directed, when he determines that the real property comprising Camp Livingston, Camp Beauregard and Esler Field, or any part thereof, is available for conveyance to the State of Louisiana for the training and support of the National Guard of Louisiana, to convey all the right, title and interest of the United States in such property, together with improvements thereon and appurtenances thereunto belonging, to the State of Louisiana by quitclaim deed, without monetary consideration therefor, but upon condition that it shall be used for the aforesaid purposes and if such real property shall ever cease to be used for such purposes, all the right, title and interest in and to such real property shall revert to and become the property of the United States which shall have the immediate right of entry thereon, and to be further subject to the reservation by the United States of all mineral rights, including oil and gas; the right of reentry and use by the United States in the event of need therefor during a national emergency; and such other reservations, restrictions, terms, and conditions as the Secretary determines to be necessary to properly protect the interests of the United States."

The language in section 1 of the bill and in the proposed amendment is considered sufficient in scope to authorize the conveyance of avigation easements over 362.18 acres of land adjoining Esler Field with the Government-owned land comprising the field.

Enactment of this measure will not involve the expenditure of any Department of Defense funds.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Inasmuch as the committee has requested that this report be expedited, it is submitted without a determination by the Bureau of the Budget as to whether it conforms to the program of the President. As soon as such advice is received it will be forwarded to your committee.

Sincerely yours,

(Signed) ROBERT T. STEVENS,
Secretary of the Army.

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Calendar No. 1238

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1223

PROVIDING FOR THE SALE OF THE PORT NEWARK ARMY BASE TO THE CITY OF NEWARK, N. J.

JULY 28, 1955.—Ordered to be printed

Mr. STENNIS, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 2624]

The Committee on Armed Services, to whom was referred the bill (S. 2624) to amend an act entitled "An act to provide for the sale of the Port Newark Army Base to the city of Newark, N. J., and for other purposes," approved June 20, 1936, as amended, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of this bill is to revise the basis on which the Government would compensate the city of Newark, N. J., or its authorized lessee, for a taking by the United States during a war or national emergency of the Marine Terminal known as the Port Newark Army Base.

HISTORICAL BACKGROUND

The act of June 20, 1936, as amended by the act of April 15, 1948, authorized the sale of the facilities comprising the Port Newark Army Base to the city of Newark for a monetary consideration of $2 million. The United States retained the right to reenter and to use the property in the event of war or a national emergency declared by the Congress by paying 3 percent of the purchase price. Thus, the maximum compensation that could be paid to the city of Newark, or its authorized lessee, for the use of these facilities during a national emergency declared by the Congress, or war, is $60,000 per annum.

All buildings, structures, and utilities comprising this facility are now in poor condition. Fifteen hundred feet of the wharf must be rebuilt if it is to be used at all. The electrical wiring, water mains, sprinkler system, and heating systems must be replaced. Practically all the building platforms and all the street areas must be rebuilt. It is anticipated that about $5 million must be invested in the premises immediately, and about $5 million more by 1960, if commercial tenants are to occupy the site and thus provide sufficient revenue to permit the preservation, and continued maintenance, and rehabilitation of the area so as to insure its continued availability as a marine terminal

in good operating condition. The improvement of the deteriorating facilities at Port Newark Army Base is important to the United States Government since it will result in a valuable facility which would be available to the United States for mobilization purposes.

The statutory limitation of $60,000 on the compensation that the United States can pay for use of these facilities during a war or national emergency declared by the Congress constitutes a serious deterrent to the substantial rehabilitation or improvement of the facility by the city of Newark, or its lessee, the Port of New York Authority.

WHAT THE BILL DOES

The principal effect of the bill is to provide a sliding-scale formula of compensation in the event the United States recaptures use of this property during a war or national emergency declared by the Congress. The sliding scale is based on the amounts expended for rehabilitation and reconstruction of the property. It should be emphasized that these amounts to be expended are not Government funds, but will be expended by private groups.

For any improvements of less than $3 million there would be no increase in the rental under a recapture, so that the rental would remain at $60,000. For any improvements in an amount more than $3 million, but less than $10 million, the Government would pay $60,000 plus a sum equal to three-fifths of the annual fair rental value of the property on the date of reentry.

If more than $10 million has been expended for the rehabilitation and reconstruction, on reentry the United States would pay $60,000 per year plus the percentage of the fair rental value that the fair market value minus $3,200,000 is to the total fair market value. The $3,200,000 figure is assumed to be the Government's interest in the property today. The compensation under this formula can perhaps best be illustrated by using hypothetical figures. It is emphasized that the following example is wholly hypothetical for the purposes of illustration:

Presume $10 million spent on improvements. We may then presume a total market value $13,200,000 and applying an 8 percent return, a fair rental value of approximately $1,056,000 per year.

In that case the Government rent would be:

$$\text{Fair market value } \frac{(\$13{,}200{,}000) \text{ minus } (\$3{,}200{,}000)}{\text{Fair market value } (\$13{,}200{,}000)} = \frac{\$10{,}000{,}000}{\$13{,}200{,}000} = 75\tfrac{3}{4} \text{ percent}$$

Therefore, 75¾ percent of $1,056,000 (fair rental value)	=	$799,920
Base rent	=	60,000 plus
Total rent		859,920

Other provisions of the bill

If the United States and the city of Newark, or its lessee, are unable to agree on the fair market value, or the fair rental value, on the date of reentry when such values are required for rental computation purposes, it is provided that the parties shall be guided by two appraisers, but if the United States and the city of Newark are then unable to agree, jurisdiction would then be conferred on the United States District Court in and for the District of New Jersey to determine such values.

The sums expended for normal maintenance and any moneys paid by the United States in lieu of restoration, or for damages either during

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a lease or a period of reentry, would be excluded from the amount expended for improvements on which the rental formulas are based.

It is provided that during any period of reentry the United States shall have the right to make additions and improvements and to remove any such additions and improvements prior to return of the property to the city of Newark, or its lessee.

After a period of reentry and use, unless the United States returns the property in the same condition as it was at the time of reentry, fair and reasonable restoration costs shall be allocated between the United States and the city of Newark, or its lessee, in accordance with a formula related to the formula for payment of rentals, which in turn is based on the amount of moneys expended by parties other than the United States on the installation and the then current market value of the property. The bill excludes liability by the United States for damages caused by the elements or circumstances over which the Government has no control. If the city, or its lessee, and the United States are unable to agree on the amount of damages, the bill confers jurisdiction on the United States District Court to establish such amount.

COMMITTEE ACTION ON THE BILL

As is indicated below under the heading "Departmental recommendations," the Department of Defense has no objection to the enactment of this bill, although the Department desires an amendment to permit utilization of these facilities under the rental formula included in the bill during a national emergency declared by the President, in addition to the authority contained in the bill for such use during a war or national emergency declared by the Congress.

The committee was advised that the existence of statutory authority for the utilization of this property under the rental formula prescribed by this bill, such rentals being less than the fair market value, during a national emergency declared only by the President would constitute such a deterrent to private investment in the rehabilitation of the terminal that no rehabilitation or reconstruction would be accomplished. Thus, the property would remain in its present deteriorated condition, and if required by the Government in a future emergency, the rehabilitation and construction would probably have to be accomplished through the use of Government funds. Consequently, the committee has not amended the bill in this respect as recommended by the Department of Defense. The Department's recommendation was based on experience during the emergency declared by the President following the outbreak of hostilities in Korea, when the Department recaptured use of the facility and was required to pay fair market rental, since the emergency had not been declared by the Congress. The cost of this rental, including the cost of relocating the tenants, was $552,000 per year. While it is a commendable objective to include such authority in this bill, it must be remembered that the sums to be expended for rehabilitation and reconstruction are to come from private sources and that if the inclusion of such a provision deters this investment, no useful purpose will have been served.

While the committee has declined to adopt the suggested amendment, which would have given the Government the benefit of a reduced rental during an emergency declared by the President, it should be noted that this action does not deny the United States the power that it has under other authority to acquire and to use this property

if it is needed during such an emergency. The difference is that in an emergency declared by the President, the Government in taking the property under other authority would be obligated to pay the fair rental value.

DEPARTMENTAL RECOMMENDATIONS

The views of the Department of Defense on this bill, and its predecessor, S. 2519, are set forth in the letters dated July 20, 1955, and July 22, 1955, from the Director of Legislative Programs from the Department of Defense, which are printed below and hereby made a part of this report.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
LEGISLATIVE AND PUBLIC AFFAIRS,
Washington 25, D. C., July 20, 1955.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of Defense with respect to S. 2519, a bill to amend an act entitled "An act to provide for the sale of the Port Newark Army Base to the city of Newark, N. J., and for other purposes," approved June 20, 1936, as amended.

S. 2519 would amend the act of June 20, 1936, as amended, with reference to the damages to be paid to the city of Newark, N. J., for a taking by the United States during a war or national emergency of the marine terminal known as the Port Newark Army Base. The purpose of the amendment is to provide a revised basis for payments by the United States for occupancy of the marine terminal, in contemplation of substantial improvements to such property by the Port of New York Authority, as lessee of the city of Newark. The improvement of the deteriorating facilities at Port Newark Army Base is important to the United States Government inasmuch as it will result in a valuable facility which would be available to the United States for mobilization purposes. Under the contract of sale entered into pursuant to the act of June 20, 1936, the United States on reentry would pay to the city of Newark a maximum of $60,000 per annum as "liquidated damages." This limitation constitutes a serious deterrent to the substantial rehabilitation or improvement of the facility by the city of Newark, or its lessee, the Port of New York Authority. The purpose of S. 2519 is to provide an equitable formula for determining some sums to be paid by the United States for the use of the property during any period of reentry during a state of war or national emergency.

The act of June 20, 1936, as amended, permits reentry by the United States only in the event of war or any national emergency declared by Congress and not during a national emergency declared by the President. When, in 1951, the utilization of the Port Newark Army Base facility was required by the Department of the Air Force, it was necessary to enter into a lease and pay a fair rental value for the property since the United States was then in a state of national emergency declared by the President rather than by the Congress. It was necessary for the Air Force to pay rent therefor at a rate many times the $60,000 per annum rate authorized for periods of reentry.

If S. 2519 is amended to provide for the recapture of the Port Newark Army Base in the event of a future national emergency declared by the President, the Department of Defense would strongly recommend its enactment.

In order to accomplish that purpose and include certain other amendments which are strongly recommended by the Department of Defense, a substitute draft of bill has been prepared and is enclosed.

The additional amendments and explanations thereof are as follows:

(1) S. 2519 provides for payment by the United States in certain instances to the city of Newark, or to the Port of New York Authority if the property is then under lease to the Port of New York Authority. The proposed substitute bill would provide for payment to the city of Newark, or its authorized lessee or designee, without binding the Government to make a determination of whether or not the property is then under lease to the Port of New York Authority.

(2) Under the formula proposed by S. 2519 credit in the determination of rental payments to be made would be given to moneys expended by the city of Newark, or its lessee, for "the repair, reconstruction, rehabilitation, or improvement of the said property." The substitute bill would take into consideration sums

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expended other than by the United States for "capital repair and improvement, and reconstruction or rehabilitation, other than normal maintenance." The substitute bill would also exclude from consideration any moneys paid by the United States in lieu of restoration or for damages either during a lease or a period of reentry.

(3) S. 2519 would confer authority on a board of 3 appraisers (1 appointed by the United States, 1 by the city or the port authority, and 1 by the 2 appointed by the respective parties) to establish the annual fair rental value or the fair market value of the property as of the date of taking or reentering if the United States and the city of Newark are unable to agree thereon. It has always been a function of the judicial process to determine such values in the event of disagreement between the United States and the owner of property required for use by the United States. It is believed that no useful purpose will be served by abandoning that principle in this case. S. 2519 does not provide a procedure in the event of disagreement either in the appointment of the third appraiser or among them in reaching value. The enclosed substitute bill provides for the employment of appraisers to guide and advise the parties, but if the United States and the city of Newark are unable to agree, jurisdiction would then be conferred on the United States district court in and for the district of New Jersey to determine such values.

(4) S. 2519 would impose an obligation on the United States to return the property in the same condition as at the time it was taken over, reasonable wear and tear excepted, and that unless the property was so returned, the United States should pay "the fair and reasonable restoration costs." It is further provided that in the event of disagreement that a board of appraisers shall determine the allocation of costs between the United States and the city of Newark in accordance with a formula related back to the formula for payment of rental, which in turn is based on the amount of money expended other than by the United States on the installation and the then current market value of the property. Under the act of June 20, 1936, as amended, the United States has no obligation or restoration. The substitute bill specifically excludes liability by the United States for any damages caused by the elements or by circumstances over which the Government has no control. If the city and the United States are unable to agree on the amount of damages, the substitute bill would confer jurisdiction on the United States district court to establish such amount.

In summary, the Department of Defense strongly favors the enactment of S. 2519 if it is amended to provide authority for the recapture of port Newark Army base in the event of future national emergencies declared by the President. Additionally, the Department of Defense recommends adoption of the other amendments enumerated in this reply and enactment of the enclosed substitute draft of bill, which it is felt substantially reflects the understandings which were reached in conferences between representatives of this department and representatives of the Port of New York Authority.

Time has not permitted the submission of this report to the Bureau of the Budget for advice as to its relation to the program of the President. When such advice is available, it will be forwarded to you.

Sincerely yours,

RICHARD A. BUDDEKE,
Director, Legislative Programs.

OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE,
LEGISLATIVE AND PUBLIC AFFAIRS,
Washington 25, D. C., July 22, 1955.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: This letter supplements my letter of July 20, 1955, concerning the views of the Department of Defense with respect to S. 2519, a bill "To amend an act entitled 'An Act to provide for the sale of the Port Newark Army Base to the city of Newark, N. J., and for other purposes', approved June 20, 1936, as amended."

Since that letter was submitted, conferences have taken place between representatives of this department and representatives of the Port of New York Authority. As a result of those conferences, the representatives of the Port of New York Authority have submitted a revised draft of bill incorporating, in principle, all of the amendments recommended by the Department of Defense except for

the amendment which would have provided authority for the United States to reenter the Port Newark Army Base during future national emergencies declared by the President.

A copy of that revised draft is enclosed, and the Department of Defense has no objection to its enactment. However, as more completely set forth in the earlier letter, because of the much higher costs (rental, etc.) which are involved if the property is leased or condemned, such as during the Korean hostilities, the department continues to strongly recommend that the bill be amended to provide authority for reentry during future national emergencies declared by the President.

Time has not permitted the submission of this supplemental report to the Bureau of the Budget for advice as to its relation to the program of the President. When such advice is available it will be submitted to you.

Sincerely yours,

RICHARD A. BUDDEKE,
Director, Legislative Programs.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is printed in parallel columns the text of provisions of existing law which would be amended by the various provisions of the bill.

EXISTING LAW	THE BILL
Public Law 730, 74th Congress, as amended by Public Law 483, 80th Congress	S. 2624
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be, and he is hereby, authorized to sell to the city of Newark, New Jersey, on terms and conditions deemed advisable by him, the right, title, and interest of the United States in the Port Newark Army Base, New Jersey, including such equipment pertaining thereto as he determines is not required for military purposes, for the sum of $2,000,000, of which $100,000 shall be paid in cash and the balance in annual installments of $100,000 on or before August 1 of each of the first nine years in which the city of Newark or its lessee has possession and of $200,000 on or before August 1 of each of the next five years in which the city of Newark or its lessee has possession, with permission to the city of Newark to anticipate payment of the deferred installments at any time: *Provided*, That said initial payment of $100,000 of the purchase price shall be made by the city of Newark to the Secretary of War not later than August 1, 1936, and possession delivered by the United States as of September 1, 1936, or as soon thereafter as practicable: *Provided further*, That title to the property shall pass to the city of Newark and a quitclaim deed delivered by the Secretary of War after receipt by him of the final payment: *And provided further*, That such conveyance shall be made upon	*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That in view of the national interest in the future maintenance and development of the Port Newark Army Base as a marine terminal in good operating condition, and to encourage, by providing a sound economic basis therefor, the investment by the Port of New York Authority, during the remainder of its term as lessee of the premises, of such sums for maintenance, repair, rehabilitation, or reconstruction of wharves, buildings, or other installations as may be necessary to provide and maintain such a terminal, now therefore, the first section of the Act entitled "An Act to provide for the sale of the Port Newark Army Base to the city of Newark, New Jersey, and for other purposes", approved June 20, 1936, as amended, is further amended by striking out "*And provided further*, That such conveyance shall be made upon the condition that the United States, in the event of war or of any national emergency declared by Congress to exist, shall have the right to take over said property and shall pay to the city of Newark as liquidated damages a sum equal to 3 per centum per annum on the amount therefore paid on the purchase price of the said property by the said city during each year or part thereof that the said property is occupied under such taking by the United States, the said property

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EXISTING LAW

the condition that the United States, in the event of war or of any national emergency declared by Congress to exist, shall have the right to take over said property and shall pay to the city of Newark as liquidated damages a sum equal to 3 per centum per annum on the amount theretofore paid on the purchase price of the said property by the said city during each year or part thereof that the said property is occupied under such taking by the United States, the said property to be returned to the city of Newark upon the expiration of such war or national emergency.

THE BILL

to be returned to the city of Newark upon the expiration of such war or national emergency", and inserting in lieu thereof the following: "*And provided further*, That such conveyance shall be made upon the condition that the deed executed by the Secretary of the Army shall include a provision prohibiting the city of Newark from utilizing or allowing the property to be utilized for purposes other than as a marine terminal and shall contain the express condition that whenever the Congress of the United States declares a state of war or other national emergency to exist, the United States shall have the right, subject to the obligation to make payments as hereinafter provided, to reenter the property and use the same or any part thereof, including any and all improvements made thereon during its occupancy by the city of Newark or its lessees, for the duration of such state of war or other national emergency. If the property is not returned by the United States to the city of Newark prior to the termination of such state of war or other national emergency, it shall revert to the city of Newark upon the termination of such state of war or other national emergency. During each year or part thereof that the said property is occupied by the United States under a reentry during such state of war or other national emergency, the United States shall pay to the city of Newark or, if the property is then under lease, then to the city's then lessee, a rental or rentals to be computed as follows:

"(1) If subsequent to August 1, 1955, but prior to the date of such reentry there has been expended (other than by the United States) less than the sum of $3,000,000 for the capital repair or improvement, and reconstruction or rehabilitation, other than normal maintenance, of the said property including any part thereof and the wharves, buildings, structures, or other installations thereon or therein, then and in such event the United States shall pay as the annual rent a sum equal to 3 per centum of the amount theretofore paid on the purchase price of said property by or on behalf of the city of Newark.

"(2) If subsequent to August 1, 1955, but prior to the date of such reentry, there has been expended (other than by the United States) $3,000,000 or more but less than $10,000,000, for the capital repair or improvement, and reconstruction or rehabilitation, other than normal maintenance, of said property including any part thereof and the

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wharves, buildings, structures, or other installations thereon or therein, then and in such event the United States shall pay as the annual rent $60,000 plus a sum equal to three-fifths of the annual fair rental value of said property on the date of such reentry.

"(3) If subsequent to August 1, 1955, but prior to the date of reentry, there has been expended (other than by the United States) $10,000,000 or more for the capital repair or improvement, and reconstruction or rehabilitation, other than normal maintenance, of the said property including any part thereof, and the wharves, buildings, structures, or other installations thereon or therein, then and in such event the United States shall pay as the annual rent $60,000 plus a sum equal to that part of the annual fair rental value of the property on the date of such reentry which is the same proportionate part of the annual fair rental value on that date as the excess of the fair market value of the premises on the date of such reentry over $3,200,000 is of the total fair market value on that date.

"The deed shall further provide that in establishing the fair market value or the annual fair rental value as of the date of reentry when such value or values are required for rent computation purposes, the United States and the city of Newark, or if the property is then under lease, then the United States and the city's lessee, shall be guided by two appraisers, one to be appointed by the United States and one by the city or the city's lessee, and if the United States and the city, or if the property is then under lease, then the United States and the city's lessee are unable to agree on the fair market value or the annual fair rental value as of the date of reentry, then said value or values shall be determined by the United States Dis rict Court in and for the District of New Jersey, and jurisdiction is conferred on that court for such purpose.

"The deed shall further provide that there shall be excluded from consideration as part of the sums expended by others than the United States any moneys that may be paid to the city of Newark or its lessee by the United States in lieu of restoration, if any, of the said property to be performed under any lease to the United States of said property or as restoration costs incurred by the United States, during any period of reentry as herein provided, regardless of whether or not the funds are thereafter actually expended for capital repair or improvement, or reconstruction or rehabilitation, of the said property.

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"The deed shall further provide that during any period of reentry hereunder, the United States shall have the right to make additions, alterations, modifications, or improvements to the property and that such additions, alterations, modifications, or improvements placed in, upon, or attached to said property may be removed by the United States prior to the return of the property to the city of Newark or its lessee.

"Prior to or at the expiration of the state of war or other national emergency during and on account of which the right to reenter said property herein granted, is exercised, but not later than the expiration thereof, the property shall be returned to the city of Newark or if the property is then under lease, then to the city's then lessee: *Provided, however,* That unless the United States shall return the property and the wharves, buildings, structures, and installations thereon and therein in the same condition as at the time of reentry the fair and reasonable restoration costs (which costs shall include the fair and reasonable costs of the reinstallation of any machinery, equipment, or fixtures placed on the property prior to the reentry and removed therefrom by or at the request of the United States during the period of its occupancy), as agreed upon by the United States and the city of Newark or if the property is then under lease, then by the United States and the city's then lessee shall be allocated between the United States and the city of Newark or its then lessee as follows:

"(a) If the annual rent paid by the United States is computed in accordance with subparagraph (1) hereinabove, then and in that event the United States shall pay no part of such costs;

"(b) If the annual rent paid by the United States is computed in accordance with subparagraph (2) hereinabove, then and in that event the United States shall pay to the city of Newark or if the property is then under lease, then to the city's then lessee three-fifths of such costs; and

"(c) If the annual rent paid by the United States is computed in accordance with subparagraph (3) hereinabove, the United States shall pay to the city of Newark or, if the property is then under lease, then to the city's then lessee so much of the said costs as is the same proportionate part of the total of such costs as the annual rental

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paid by the United States (less $60,000) is of the annual fair rental value.

"In the computation of restoration costs damage caused by reasonable wear and tear, by action of the elements, or by circumstances beyond the control of the United States other than acts of war or of enemies of the United States, shall be excluded.

"If the United States and the city of Newark or its then lessee are unable to agree on the fair and reasonable restoration costs, then said costs shall be determined by the United States District Court in and for the District of New Jersey in accordance with the provisions of this Act and jurisdiction is conferred on that court for such purpose."

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Calendar No. 1240

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1225

AUTHORIZING THE SECRETARY OF THE ARMY TO CONVEY A 6.89-ACRE TRACT OF LAND TO THE STATE OF TEXAS FOR NATIONAL GUARD PURPOSES

JULY 28, 1955.—Ordered to be printed

Mr. STENNIS, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 1959]

The Committee on Armed Services, to whom was referred the bill (S. 1959) to direct the Secretary of the Army or his designee to convey a 6.89-acre tract of land out of a 199.959-acre tract of land situated in the vicinity of Houston, Harris County, Tex., to the State of Texas, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

AMENDMENTS

The amendments are as follows:

On page 2, line 13, strike out "herein transferred" and insert in lieu thereof "to be conveyed".

At the end of the bill add the following new section:

SEC. 7. The cost of any surveys necessary as an incident to the conveyance authorized herein shall be borne by the State of Texas.

EXPLANATION OF THE AMENDMENTS

Since the bill provides for conveyance by the Secretary of the Army, a technical amendment to prevent a possible construction that this bill in itself is the conveyance has been adopted.

The second amendment provides that the State of Texas shall bear the cost of any surveys necessary as an incident to the conveyance herein authorized.

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to authorize and direct the Secretary of the Army or his designee to convey 6.89 acres of Government-owned land in Houston, Harris County, Tex., to the State of Texas for the training of the National Guard and the Air National Guard and for other military purposes.

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NECESSITY FOR LEGISLATION OF THIS TYPE

In the exercise of its constitutional power to regulate the disposal of Federal property, the Congress by general legislation has provided for maximum utilization of federally owned property and has provided generally and specifically for disposal of surplus property. The principal statute on this subject is the Federal Property and Administrative Services Act, Public Law 152, 81st Congress, as amended. Provisions have been made for transfers of surplus Government-owned property, both real and personal, to States, political subdivisions, and tax-supported or nonprofit institutions for health and educational purposes. Section 203 (k) of the Federal Property and Administrative Services Act, as amended, in effect authorizes these transfers without consideration by providing public benefit allowances of up to 100 percent. Provisions are made for transfers, without compensation to the Government, of surplus realty for historic monument purposes (50 U. S. C. App. 1622h). States or political subdivisions are given a public benefit allowance of 50 percent of the fair value with respect to transfers of surplus realty for park and recreational use (Public Law 616, 80th Cong.). Statutory provisions are made for transfer without monetary consideration of surplus, Government-owned airport property to States or political subdivisions for public airport use (50 U. S. C. 1622.)

No general provision of law now in effect authorizes the transfer of surplus Government-owned real property to States for National Guard purposes. Nevertheless, the Congress has by separate law authorized many conveyances of federally owned realty to the various States to be used for National Guard purposes. With rare exceptions, these laws have provided that the transfers pursuant thereto would be subject to reservations of Federal use during national emergencies and were conditioned on automatic reversion in the event of nonuse for National Guard purposes

During the 83d Congress six real property conveyances were authorized for National Guard purposes by separate acts. During the current session of the 84th Congress, at least three such bills have become law and others are in various stages of enactment.

INFORMATION ON THE PROPERTY TO BE CONVEYED

The land described in the bill is part of a parcel containing approximately 200 acres within the city limits of Houston, Tex., which was acquired in 1948 by the Veterans' Administration from the Hermann Hospital estate for use as a site for a veterans' hospital. The Veterans' Administration thereafter determined that said property was excess to its needs. On June 14, 1950, the Department of the Army acquired approximately 8.26 acres of the excess land as a site for establishment of an Army Reserve training center, and constructed an Organized Reserve Corps armory as a part of its development program. On April 6, 1955, the Department of the Army acquired an additional 6.89 acres as a site for the proposed National Guard armory, and the Department of the Air Force acquired a 5-acre tract on which to construct an Air Reserve center. These parcels are contiguous and are situated on the perimeter of the excess property which is held by General Services Administration for further utilization or for disposal as surplus property.

RESERVATIONS AND RESTRICTIONS

The United States reserves all mineral rights, including gas and oil.

The conveyance authorized by the bill would be upon the condition that if the State of Texas ceased to use the property for training of the National Guard, the Air National Guard, and for other military purposes, title would immediately revert to the United States and all improvements made by the State of Texas would vest in the United States without payment of compensation therefor.

During a national emergency declared by the Congress or the President, if the Secretary of Defense determined that the property authorized to be conveyed by this bill was useful or necessary for defense purposes, the United States would have the right to reenter and to use the property without obligation to make payment of any kind.

The bill contains a provision reserving to the United States rights of ingress and egress over the lands authorized to be conveyed in order that the utilization of a larger tract, of which the land authorized to be conveyed by this bill is a part, would not be impaired.

USE OF THE LAND BY THE STATE

The land that is the subject of this bill is desired by the State of Texas to provide a site on which to construct a National Guard armory. The Department of the Army, on behalf of the Department of Defense, suggested that the committee consider an amendment which would have provided that any Federal contribution toward the construction of this armory be reduced in an amount equivalent to the fair value of the property that this bill authorizes to be conveyed, since the National Defense Facilities Act of 1950 contemplates that the site on which a National Guard armory is to be constructed will be provided at the State's expense. The committee has not inserted such an amendment because it appears that under the National Defense Facilities Act of 1950, the Secretary of Defense is authorized not only to determine the desirability of Federal participation in a particular armory construction, but also to prescribe the conditions of any Federal participation and the amounts (not to exceed 75 percent) to be contributed by the Federal Government. Hence, the Secretary of Defense has the authority to impose the effect of the suggested amendment by administrative action.

The committee has also been mindful that of the many legislative conveyances for National Guard purposes, only one, Public Law 268, 83d Congress, imposed a condition such as that suggested by the Department. In that instance, the conveyance did not provide for some of the usual reservations, such as the right to reenter in an emergency and the reservation of mineral rights.

The conveyance that would be authorized by this bill is upon the condition that the property shall be "used for training of the National Guard and the Air National Guard and for other military purposes." The committee was informed that the armory to be constructed on this property is a part of an Armed Forces center in the Houston area, which will have combined facilities for several Reserve components. In determining the conditions of any Federal contribution toward construction of these National Guard facilities under the National Defense Facilities Act of 1950, the Secretary of Defense will prescribe the other military purposes for which this property can be used.

DEPARTMENTAL RECOMMENDATIONS—COST DATA

The enactment of this measure will not involve the expenditure of any Department of Defense funds.

The Department of the Army, on behalf of the Department of Defense, interposes no objection to the bill, but recommends certain amendments, one of which has been mentioned above. The other amendments suggested by the Department have been adopted.

The views of the Department of Defense are set forth in a letter from the Secretary of the Army that is printed below and hereby made a part of this report.

DEPARTMENT OF THE ARMY,
Washington 25, D. C., June 17, 1955.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to S. 1959, 84th Congress, a bill to direct the Secretary of the Army or his designee to convey a 6.89-acre tract of land out of a 199.959-acre tract of land situated in the vicinity of Houston, Harris County, Tex., to the State of Texas. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The Department of the Army on behalf of the Department of Defense interposes no objection to the above-mentioned bill, but recommends that it be amended in the manner set forth in this report.

The purpose of the bill is to authorize and direct the Secretary of the Army or his designee to convey 6.89 acres of Government-owned land in Houston, Harris County, Tex., to the State of Texas for the training of the National Guard and the Air National Guard and for other military purposes, the conveyance to be without monetary consideration therefor, but on condition that the property shall be used for the foregoing purposes and subject to certain reservations, including the reservation of mineral rights and the right of reentry and use during a national emergency.

The land described in the bill is part of a parcel containing approximately 200 acres within the city limits of Houston, Tex., which were acquired in 1948 by the Veterans' Administration from the Hermann Hospital estate for use as a site for a veterans hospital. The Veterans' Administration thereafter determined that said property was excess to its needs. On June 14, 1950, the Department of the Army acquired approximately 8.26 acres of the excess land as a site for establishment of an Army Reserve training center, and constructed an Organized Reserve Corps armory as a part of its development program. On April 6, 1955, the Department of the Army acquired an additional 6.89 acres as a site for the proposed National Guard Armory, and the Department of the Air Force acquired a 5-acre tract on which to construct an Air Reserve center. These parcels are contiguous and are situated on the perimeter of the excess property which is held by General Services Administration for further utilization or for disposal as surplus property.

The land described in S. 1959 is required by the State of Texas to provide a site on which it plans to construct a National Guard armory. It is understood that after the State secures title to the property, it proposes to make application for a Federal contribution toward such construction under the provisions of section 3 (c) of the National Defense Facilities Act of 1950 (64 Stat. 830). That act contemplates that the site on which an armory is to be constructed by a State with such funds will be provided at the State's expense. Since S. 1959 provides for transfer of the property to the State without reimbursement, the committee may wish to add the following section to the bill:

"SEC. 7. Any contribution of funds by the Secretary of Defense to the State of Texas for the construction of facilities as provided in section 3 (c) of the National Defense Facilities Act of 1950 (64 Stat. 830) shall, in addition to the limitation in section 4 (d) of said Act, be reduced in an amount equivalent to the fair value of the real estate described in section 1 hereof, as determined by the Department of the Army."

Inasmuch as the bill provides for conveyance by the Secretary of the Army, it is recommended that the words "herein transferred" in line 13, page 2, be deleted

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and the words "to be conveyed" be substituted therefor. It is further recommended that an additional section be included in the bill to provide substantially the following:

"SEC. 8. The cost of any surveys necessary as an incident to the conveyance authorized herein shall be borne by the State of Texas."

The enactment of this measure will not involve the expenditure of any Department of Defense funds.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

Inasmuch as the committee has requested that this report be expedited, it is submitted without a determination by the Bureau of the Budget as to whether or not it conforms to the program of the President. As soon as such advice is received, it will be forwarded to your Committee.

Sincerely yours,

(Signed) ROBERT T. STEVENS,
Secretary of the Army.

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Calendar No. 1241

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1226

AUTHORIZING THE CONVEYANCE TO THE CITY OF ANNISTON, ALA., OF CERTAIN REAL PROPERTY WITHIN FORT McCLELLAN, ALA.

JULY 28, 1955.—Ordered to be printed

Mr. STENNIS, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 46]

The Committee on Armed Services, to whom was referred the bill (H. R. 46) to authorize the conveyance to the city of Anniston, Ala., of certain real property within Fort McClellan, Ala., having considered the same, report favorably thereon with amendments, and recommend that the bill as amended do pass.

AMENDMENTS TO THE BILL

On page 1, line 3, strike out "after" and insert in lieu thereof "if".

On page 1, line 10, strike out "cemetery" and insert in lieu thereof "municipal".

EXPLANATION OF THE AMENDMENTS

The first amendment changes the word "after" to "if", in order to avoid any suggestion that the Congress is requiring the Secretary of the Army to determine that the property authorized to be conveyed by this bill is excess to the requirements of the Department of Defense.

The second amendment is intended to liberalize the conditions on which the property is authorized to be conveyed, so that the city of Anniston could lease a part of the property as a site for an American Legion Home.

PURPOSE OF THE BILL

The purpose of the bill as amended is to authorize the Secretary of the Army, if he determines that such real property is excess to the requirements of the Department of Defense, to convey to the city of Anniston, Ala., for its fair market value, approximately 38.5 acres of land comprising a part of Fort McClellan Reservation.

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BACKGROUND OF THE BILL

The property described in section 2 of the bill lies within the area originally acquired during World War I in connection with the establishment of Fort McClellan, Ala. In aid of the acquisition at that time, the Chamber of Commerce of Anniston, Ala., entered into a contract with the United States to convey to the United States approximately 14,000 acres of land for $130,000. The contract further provided for the conveyance of additional tracts of land in this manner as Federal funds should become available therefor, the total purchase price not to exceed $254,000. In succeeding years it became necessary to institute condemnation proceedings to clear the title to some of the parcels of land so acquired and on March 8, 1945, the chamber of commerce executed a quitclaim deed quitclaiming all its rights, title and interest in and to all lands lying within the exterior boundary of the reservation in order to take care of any omissions or errors in earlier deeds conveying individual tracts to the United States.

The land described in section 2 of the bill consists of 3 parcels of land totaling 38.5 acres just outside the corporate limits of the city of Anniston and west of United States Highway No. 11 which, by virtue of its relocation in 1941 from a point outside Fort McClellan to its present location within the reservation, severs these parcels of land from Fort McClellan. The southernmost parcel adjoins the Anniston corporate limits and consists of 9.5 acres with soil deposits which are utilized from time to time for base materials for roadbuilding within Fort McClellan. The second parcel which consists of 18.2 acres, is excess to the needs of the Department of Defense and is available for further utilization by the Federal Government or disposal. The third parcel, which consists of 10.8 acres, is surplus to the needs of the Federal Government and has been offered for sale pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended, but its disposition has not been completed.

PROTECTIVE PROVISIONS IN THE BILL

The bill as amended provides that the city must pay the fair market value of the land.

If the property is not utilized for municipal purposes for at least 2 years following the date of conveyance, title shall revert to the United States.

COST DATA

Enactment of this bill will not involve the expenditure of any Federal funds.

DEPARTMENTAL RECOMMENDATIONS

Attached hereto and made a part of this report is a letter from the Secretary of the Army indicating that the Department of the Army on behalf of the Department of Defense has no objection to the enactment of this bill in the amended form in which it passed the House.

Also attached hereto and made a part of this report is a letter from the General Counsel of the General Services Administration giving the views of that agency on S. 77, a companion bill. This letter points out that under the Federal Property and Administrative Services Act

of 1949, if this property is not needed by the Department of Defense and if the GSA determines that it also is not needed by any other Federal agency, it could be disposed of by negotiated sale at its fair value to the city after an explanation of the proposed disposal had been submitted to the Government Operations Committees of the Senate and House of Representatives. However, the provision of law under which such a negotiated sale could be accomplished expired on June 30, 1955, and there is no assurance that it will be extended.

DEPARTMENT OF THE ARMY,
Washington 25, D. C., May 27, 1955.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H. R. 46, 84th Congress, a bill to authorize the conveyance to the city of Anniston, Ala., of certain real property within Fort McClellan, Ala. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The Department of the Army on behalf of the Department of Defense has considered this bill and recommends that it be amended in the manner set forth in this report. The purpose of the bill is to authorize the Secretary of the Army, after he determines that such real property is excess to the requirements of the Department of Defense, to convey to the city of Anniston all right, title, and interest of the United States in and to certain land comprising a part of Fort McClellan Military Reservation, Ala., subject to the condition that such property shall be used only for a cemetery and shall revert to the United States in the event it shall cease to be used for such purpose, and subject to such other terms and conditions as the Secretary of the Army may prescribe.

The property described in section 2 of the bill lies within the area originally acquired during World War I in connection with the establishment of Fort McClellan, Ala. In aid of the acquisition at that time, the Chamber of Commerce of Anniston, Ala., entered into a contract with the United States to convey to the United States approximately 14,000 acres of land for $130,000. The contract further provided for the conveyance of additional tracts of land in this manner as Federal funds should become available therefor, the total purchase price not to exceed $254,000. In succeeding years it became necessary to institute condemnation proceedings to clear the title to some of the parcels of land so acquired and on March 8, 1945, the chamber of commerce executed a quitclaim deed quitclaiming all its right, title, and interest in and to all lands lying within the exterior boundary of the reservation in order to take care of any omissions or errors in earlier deeds conveying individual tracts to the United States.

The land described in section 2 of the bill consists of 3 parcels of land totaling 38.5 acres just outside the corporate limits of the city of Anniston and west of United States Highway No. 11, which, by virtue of its relocation in 1941 from a point outside Fort McClellan to its present location within the reservation, severs these parcels of land from Fort McClellan. The southernmost parcel adjoins the Anniston corporate limits and consists of 9.5 acres with soil deposits which are utilized from time to time for base materials for roadbuilding within Fort McClellan. The second parcel, which consists of 18.2 acres, is excess to the needs of the Department of Defense and is available for further utilization by the Federal Government or disposal. The third parcel, which consists of 10 8 acres, is surplus to the needs of the Federal Government and has been offered for sale pursuant to authority contained in the Federal Property and Administrative Services Act of 1949, as amended, but its disposition has not been completed.

If enacted, H. R. 46 would provide the authorization needed in order to convey so much of the property as is now surplus to the city of Anniston without regard to the requirements of existing law or regulation providing for compensation or competitive bidding, etc.; it would authorize the conveyance of so much of the property as is now excess to Department of Defense needs without a determination as to whether the property is surplus to the needs of the Government; and it would provide present authority for the future disposition of property which is not now excess to the needs of the Department of Defense. In addition, H. R. 46 provides for the use of the property for a cemetery only and, fur-

ther, if such real property shall ever cease to be used for such purpose, all the right, title, and interest in and to such real property shall revert to and become the property of the United States.

These parcels of land are so situated that it is unlikely that, having been determined to be excess to the needs of the Department of Defense, they will ever be required for military purposes. In view thereof, and because of the proposed use of the land as a cemetery, the provision in section 1 of the bill for reversion of title to the United States if such real property shall ever cease to be used for cemetery purposes preserves a contingent interest in the property of doubtful value to the United States. In order to appropriately amend this portion of the bill and to provide for compensation to be paid for the land to be conveyed, it is recommended that the following be substituted for section 1 of the bill:

"That the Secretary of the Army is authorized, after he determines that the real property described in section 2 of this Act is excess to the requirements of the Department of Defense, to convey to the city of Anniston, Alabama, at the then fair market value thereof, all right, title, and interest of the United States in and to such real property subject to (1) the condition that if the real property conveyed under authority of this Act shall not be utilized for cemetery purposes prior to the expiration of a period of two years from the date of the conveyance made pursuant to this Act, all the right, title, and interest, in and to such property, shall revert to and become the property of the United States who shall have the immediate right of entry thereon, and (2) subject to such other terms and conditions as he may prescribe."

It is further recommended that the acreage "38.2" in line 12, page 3 of the bill be changed to "38.5".

Enactment of this measure will not involve the expenditure of any Department of Defense funds.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that while there is no objection to the submission of this report, it concurs in the views of the General Services Administration as expressed in its report on a similar bill, S. 77, 84th Congress, a copy of which report is enclosed.

Sincerely yours,

ROBERT T. STEVENS,
Secretary of the Army.

GENERAL SERVICES ADMINISTRATION,
Washington 25, D. C.

Re S. 77

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate, Washington 25, D. C.

DEAR SENATOR RUSSELL: Further reference is made to your letter of January 7, requesting the views of this agency regarding S. 77, for the conveyance of certain real property to the city of Anniston, Ala.

The bill relates to some 38.2 acres of Federal real property within Fort McClellan, Ala. It authorizes the Secretary of the Army, when he determines the property is not needed by the Department of Defense, to convey it to the city of Anniston for cemetery purposes. On cessation of such use the property would revert to the Government.

This agency is unaware of a justification for such donation and preference to the city of Anniston contrary to existing laws for the utilization and disposal of excess and surplus Federal property.

Under the Federal Property and Administrative Services Act of 1949, if this property is not needed by the Department of Defense and if this agency determines that it is also not needed by any other Federal agency, it may be disposed of by negotiated sale at its fair value to the city after an explanation of the proposed disposal has been submitted to the Government Operations Committees of the Senate and House of Representatives.

This agency objected to a similar bill (H. R. 4360) in the previous session and would object to enactment of the subject bill.

MAXWELL H. ELLIOTT, *General Counsel.*

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Calendar No. 1242

84TH CONGRESS, 1st Session } SENATE { REPORT No. 1227

AUTHORIZING APPOINTMENT OF RESERVE MIDSHIPMEN IN UNITED STATES NAVY

JULY 28, 1955.—Ordered to be printed

Mrs. SMITH of Maine, from the Committee on Armed Services, submitted the following

REPORT

[To accompany S. 1748]

The Committee on Armed Services, to whom was referred the bill, S. 1748, to authorize the appointment of Reserve midshipmen in the United States Navy, and for other purposes, having considered the same, report favorably thereon with amendments, and recommend that the bill as amended do pass.

AMENDMENTS

On page 2, between lines 3 and 4, add a new section 4, as follows:

SEC. 4. Service as a Reserve midshipman shall not be credited in the computation of retired pay and such service shall not be considered as service in a reserve component for the purposes of section 4 (d) (3) of the Universal Military Training and Service Act (62 Stat. 609), as amended (50 U. S. C. App. 454 (d) (3)).

On page 2, line 4, delete "SEC. 4." and insert in lieu thereof "SEC. 5.".

EXPLANATION OF COMMITTEE AMENDMENTS

The committee added amending language which would expressly provide that service as a Reserve midshipman would not be credited in the computation of retired pay and would not be considered as service in a Reserve component for purposes of the Universal Military Training and Service Act.

PURPOSE OF THE BILL

The purpose of this bill is to amend the Armed Forces Reserve Act of 1952 so as to authorize the Secretary of the Navy to make appointments in the grade of midshipman, and to amend the Universal

Military Training and Service Act, as amended, in order to provide draft exemption for persons while serving as midshipmen appointed under the authority of this legislation.

NEED FOR LEGISLATION

This legislation concerns the status of men attending the Merchant Marine Academies.

Prior to the enactment of the Armed Forces Reserve Act of 1952, the Department of the Navy had authority under the Naval Reserve Act of 1938 to appoint persons as midshipmen in the Merchant Marine Reserve. Under section 6 (a) of the Universal Military Training and Service Act, as amended, such midshipmen were exempt from registration and service.

The Reserve Act of 1952, however, repealed the authority of the Navy to make appointments as midshipmen in the Merchant Marine Reserve. Since the Reserve Act of 1952, the Department of the Navy has established an interim procedure for persons attending maritime academies. Under this procedure, men entering these schools have enlisted in the Naval Reserve and were designated officer candidates for the purpose of attending these schools. At the same time these persons signed an agreement to serve on active duty for 2 years following graduation from the academy and for 6 years in the Active Reserve.

EFFECT OF THE BILL

The effect of this bill would be to amend the Reserve Act of 1952 by authorizing the Secretary of the Navy to make appointments in the grade of midshipman. In addition, the Universal Military Training and Service Act would be amended by deleting existing language relating to midshipmen in the Merchant Marine Reserve and substituting "Reserve midshipmen (Merchant Marine), United States Navy." In substance the bill makes the status of those persons attending the maritime academies similar to those who attended such academies prior to the Armed Forces Reserve Act of 1952.

DEPARTMENTAL RECOMMENDATION

The Department of the Navy on behalf of the Department of Defense and with the advice of the Bureau of the Budget indicates that there is no objection to the enactment of this bill as indicated by the letter printed below and hereby made a part of this report.

DEPARTMENT OF THE NAVY,
OFFICE OF THE SECRETARY,
Washington 25, D. C., July 18, 1955.

Hon. RICHARD B. RUSSELL,
Chairman, Committee on Armed Services,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: Your request for comment on S. 1748, a bill to authorize the appointment of Reserve midshipmen in the United States Navy, and for other purposes, has been assigned to this Department by the Secretary of Defense for preparation of a report thereon expressing the views of the Department of Defense.

The bill would amend the Armed Forces Reserve Act of 1952 so as to authorize the Secretary of the Navy to make appointments in the grade of midshipman. The bill would, further, amend the Universal Military Training and Service Act to provide draft exemption for midshipmen appointed under the authority of the bill.

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Although the bill would authorize the Secretary of the Navy to appoint as a midshipman any person who is an officer candidate, the Department of the Navy would restrict such appointments to those officer candidates who are enrolled at merchant marine academies in naval science courses. It is not contemplated to use this authority with respect to categories of officer candidates at activities other than merchant marine academies.

At the present time, pursuant to an informal agreement between the Chief of Naval Personnel and the Maritime Administration of the Department of Commerce, students who have entered the Merchant Marine Academies since January 1, 1953, have been enlisted in the Naval Reserve as officer condidates. In such status, a student may be deferred from induction under the draft if he executes a deferral agreement which obligates him to serve on active duty for 2 years after graduation. Experience has shown that this obligation on the part of the individual is interpreted by the Congress to be an obligation on the service, as well, to provide an opportunity to perform such active duty. Consequently, the Department of the Navy has been placed in a position where it must assure an opportunity to serve on active duty to individuals whose numbers are not under the control of the Department of the Navy.

The present arrangement has been recognized to be an interim procedure only, with the understanding that legislation similar to S. 1748 would be proposed by the Department of Commerce. The Navy does not desire to continue indefinitely to employ on active duty all graduates of the maritime academies, either as a matter of implied or expressed responsibility. It is considered, however, that those students at the maritime academies who are commissioned in the Naval Reserve upon graduation should have the same obligation as other officer candidates to remain in the Reserve for 8 years after being commissioned. The amendment to the Universal Military Training and Service Act contained in S. 1748 would have the effect of allowing the Reserve midshipmen at the maritime academies to count the time spent in the academies toward satisfying the 8-year obligation incurred under section 4 (d) (3) of that act. Also the time spent as Reserve midshipmen could possibly be counted in the computation of retired pay. It is, therefore, recommended that S. 1748 be amended by redesignating present section 4 as section 5 and adding the following section:

"SEC. 4. Service as a Reserve midshipman shall not be credited in the computation of retired pay and such service shall not be considered as service in a reserve component for the purposes of section 4 (d) (3) of the Universal Military Training and Service Act (62 Stat. 609), as amended (50 U. S. C. App. 454 (d) (3))."

Subject to the proposed amendment, the Department of the Navy, on behalf of the Department of Defense, strongly recommends the enactment of S. 1748 at the earliest practicable date.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Department of the Navy has been advised by the Bureau of the Budget that there is no objection to the submission of this report on S. 1748 to the Congress.

Sincerely yours,

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CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is printed in parallel columns the text of provisions of existing law which would be amended by the various provisions of the bill.

EXISTING LAW	THE BILL
Armed Forces Reserve Act of 1952	S. 1748
SEC. 220. The appropriate Secretary shall make all appointments of Reserves in warrant officer grades.	That section 220 of the Armed Forces Reserve Act of 1952 is hereby amended by inserting immediately before the period at the end thereof the following: "and in the grade of midshipman".
SEC. 223. Reserve warrant officers shall hold appointment during the pleasure of the appropriate Secretary.	SEC. 2. Section 223 of the Armed Forces Reserve Act of 1952 is hereby amended by inserting immediately after "officers" the following: "and Reserve midshipmen".
Universal Military Training and Service Act	
SEC. 6. (a) EXEMPTIONS FROM REGISTRATION AND SERVICE.—Commissioned officers, warrant officers, pay clerks, enlisted men, and aviation cadets of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey and the Public Health Service; cadets, United States Military Academy; midshipmen, United States Navy; cadets, United States Coast Guard Academy; midshipmen, Merchant Marine Reserve, United States Naval Reserves; students enrolled in an officer procurement program at military colleges the curriculum of which is approved by the Secretary of Defense; members of the reserve components of the Armed Forces, the Coast Guard, and the Public Health Service, while on active duty; and foreign diplomatic representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls and other consular agents of foreign countries who are not citizens of the United States, and members of their families, and persons in other categories to be specified by the President who are not citizens of the United States.	SEC. 3. Subsection (a) of section 6 of the Universal Military Training and Service Act is hereby amended by striking out "midshipmen, Merchant Marine Reserve, United States Naval Reserves" and inserting in lieu thereof: "Reserve midshipmen (merchant marine), United States Navy".
	SEC. 4. Service as a Reserve midshipman shall not be credited in the computation of retired pay and such service shall not be considered as service in a reserve component for the purposes of section 4 (d) (3) of the Universal Military Training and Service Act (62 Stat. 609), as amended (50 U. S. C. App. 454 (d) (3)).

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Calendar No. 1243

84TH CONGRESS, 1st Session } SENATE { REPORT No. 1228

INCREASING THE ANNUAL COMPENSATION OF THE ACADEMIC DEAN OF THE UNITED STATES NAVAL POSTGRADUATE SCHOOL

JULY 28, 1955.—Ordered to be printed

Mr. SALTONSTALL, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 2149]

The Committee on Armed Services, to whom was referred the bill, H. R. 2149, to increase the annual compensation of the Academic Dean of the United States Naval Postgraduate School, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the proposed legislation is to authorize an increase in the compensation of the Academic Dean of the United States Naval Postgraduate School from $12,000 to $13,500.

NEED FOR THE LEGISLATION

The civilian position of the Academic Dean of this school was established under the act of June 10, 1946 which fixed the salary for this position at $12,000 annually. No change has been made in the annual compensation for this position since the enactment of the 1946 act even though four cost of living increases have been awarded to most other Federal employees. The Department of the Navy advises that a survey was conducted by the Department and it was found that a salary of $13,500 annually was comparable to the salaries paid deans of other similar engineering schools throughout the United States.

DESCRIPTION OF THE POSITION OF ACADEMIC DEAN

The Academic Dean of the Naval Postgraduate School is the head of the civilian faculty of that institution. He holds a position similar

to that of a head of any of the outstanding engineering schools of the country. On the faculty of the school there are approximately 94 civilian professors and instructors in addition to naval personnel who are assigned to the school as directors and instructors of specific divisions.

The Secretary of the Navy possesses the authority pursuant to the act of July 1, 1947, to grant to the other civilian employees of the faculty, cost of living increases comparable to those granted to other employees of the Federal Government. Under this authority senior professors at the school are now receiving $11,180 per year and this amount could be increased by secretarial action as a result of the recent Federal pay increases. Because of the statutory limitations, however, the salary of the Academic Dean cannot be increased beyond $12,000 annually.

NO COMPARABLE POSITION IN THE DEPARTMENT OF THE ARMY

The Department of the Army has advised that the Army school system does not have any position comparable to that of Academic Dean of the United States Navy Postgraduate School and that no reason exists therefore for the inclusion of the Department of the Army in this bill.

The Academic Director of the Air Force Institute of Technology and the Dean of the Air University hold civil-service positions for which compensation is established in accordance with the usual Federal pay legislation regarding civil-service employees.

FISCAL DATA AND DEPARTMENTAL RECOMMENDATION

The enactment of the proposed legislation would result in an annual increased cost of $1,500 and would be absorbed from existing appropriations, since this bill is part of the Department of Defense legislative program for 1955 as indicated below and hereby made a part of this report. The letter indicates that the Bureau of the Budget has no objection to the submission of the report.

DEPARTMENT OF THE NAVY,
Washington, D. C., January 5, 1955.

Hon. RICHARD M. NIXON,
President of the Senate, United States Senate,
Washington 25, D. C.

MY DEAR MR. PRESIDENT: There is forwarded herewith a draft of proposed legislation to increase the annual compensation of the Academic Dean of the United States Naval Postgraduate School.

This proposal is part of the Department of Defense legislative program for 1955 and the Bureau of the Budget has advised that there would be no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to increase the statutory limitation which is now imposed on the annual compensation of the Academic Dean of the United States Naval Postgraduate School.

The present compensation of the Academic Dean of the Naval Postgraduate School was established in 1946 when that position was created by the act of June 10, 1946 (60 Stat. 236) for the Postgraduate School of the Naval Academy. When the Postgraduate School was given statutory recognition by the act of

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July 31, 1947 (61 Stat. 706), and was established as a school separate from the Naval Academy and designated the United States Naval Postgraduate School, the provisions of the act of June 10, 1946, were made applicable to the Academic Dean of the United States Naval Postgraduate School.

Since 1946 no change has been made in the annual compensation of the Academic Dean of the Naval Postgraduate School, although two cost of living increases have been granted almost all other Federal Government employees. While the Secretary of the Navy may, under the authority given him by the act of July 31, 1947, grant to the other civilian members of the faculty of the Naval Postgraduate School cost of living increases comparable to those granted other employees of the Federal Government, he may not increase the compensation of the Academic Dean beyond $12,000 because of the limitation imposed on that salary by the act of June 10, 1946.

The Academic Dean of the Naval Postgraduate School is head of the civilian faculty of that school, a position which is similar to that of the dean of any of the outstanding engineering schools in this country. In order to retain a person of the high caliber which the position requires, the salary provided must be comparable with that offered by private institutions.

The proposed legislation would authorize the Secretary of the Navy to prescribe the annual salary of the Academic Dean at a rate not to exceed $13,500. An analysis of the figures obtained from a recent survey by the Department of the Navy of civilian institutions of comparable purpose and standing shows the present average salary for deans to be $13,500.

LEGISLATIVE REFERENCE

This proposal was submitted to the 83d Congress by the Department of the Navy on March 11, 1954, as a part of the Department of Defense legislative program for 1954. It was introduced as S. 3177 but no further action was taken thereon.

COST AND BUDGET DATA

Enactment of the proposed legislation would result in an annual increased cost of $1,500, which would be absorbed from existing appropriations.

Sincerely yours,

C. S. THOMAS.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is printed in parallel columns the text of provisions of existing law which would be amended by the various provisions of the bill.

EXISTING LAW

Act of July 31, 1947 (61 Stat. 706).

SEC. 4. The Act of June 10, 1946 (Public Law 402, Seventy-ninth Congress, second session), creating the civilian position of Academic Dean of the Postgraduate School of the Naval Academy shall apply to the postgraduate school established by this Act.

Act of June 10, 1946 (60 Stat. 236, c. 298).

The civilian position of Academic Dean of the Postgraduate School of the Naval Academy is hereby established. The Secretary of the Navy, upon the recommendation of the Postgraduate School Council, which shall consist of the Superintendent, Deputy Superintendent, and the Directors of the Technical, Administrative, and Professional Divisions of the Postgraduate School, shall appoint an academic to serve for periods of not in excess of five years. The Secretary of the Navy is hereby authorized to pay as compensation to such dean not more than $12,000 annually from appropriations made for operation of the Naval Academy and postgraduate school, and said dean shall be considered as a member of the civilian teaching staff of the postgraduate school of the Naval Academy insofar as provisions of law regarding retirement are concerned.

THE BILL

SEC. 1. That section 4 of the Act of July 31, 1947 (61 Stat. 706), is amended to read as follows:

"SEC. 4. There shall be at the United States Naval Postgraduate School the civilian position of Academic Dean. An Academic Dean shall be appointed, to serve for periods of not in excess of five years, by the Secretary of the Navy upon the recommendation of the Postgraduate School Council, which shall consist of the Superintendent, Deputy Superintendent, and the Directors of the Technical, Administrative, and Professional Divisions of the United States Naval Postgraduate School. The Academic Dean shall receive such compensation for his services as may be prescribed by the Secretary of the Navy, which compensation shall not exceed $13,500 per year. The Academic Dean shall be considered as a member of the civilian teaching staff of the United States Naval Postgraduate School insofar as provisions of law regarding retirement are concerned."

SEC. 2. The Act of June 10, 1946 (60 Stat. 236, c. 298), is hereby repealed.

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Calendar No. 1244

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1229

AUTHORIZING MALE NURSES AND MEDICAL SPECIALISTS TO BE APPOINTED AS RESERVE OFFICERS

JULY 28, 1955.—Ordered to be printed

Mr. SALTONSTALL, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 2559]

The Committee on Armed Services, to whom was referred the bill (H. R. 2559) to authorize male nurses and medical specialists to be appointed as Reserve officers, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of the proposed legislation to provide permissive authority to appoint male nurses and medical specialists (dietitians, physical therapists, and occupational therapists) as commissioned officers in the Reserve components of the Armed Forces of the United States, on the same basis as female personnel appointed in those categories.

It also amends the Army-Navy Nurses Act of 1947, by changing the existing requirement of citizenship of nurses and medical specialists so as to make eligible for Reserve commissions those otherwise qualified persons who are not citizens, but have declared their intent to become citizens.

NEED FOR LEGISLATION

The Army-Navy Nurses Act of 1947 was enacted on the assumption that the Nurses and Medical Specialist Corps would be composed wholly of women, and this legislation accordingly authorizes the appointment of only female persons as nurses or as medical specialists.

There are approximately 2,500 qualified male nurses in the United States today. In view of the shortage of nurses in the Armed Forces the enactment of this legislation should be a source of attracting qualified male nurses into the Armed Forces. In addition, there are about 80 qualified male nurses presently in the armed services in

an enlisted status in fields outside their occupational specialty. The enactment of this legislation would permit their appointment as Reserve officers and their utilization in their professional capacity. There are also presently serving in the Army as inductees about 50 male physiotherapists and 6 occupational therapists who could possibly qualify for appointment as medical specialists.

REDESIGNATION OF TITLES

In addition to authorizing the appointment of male nurses as specialists and in addition to the provision authorizing the appointment of persons who have filed a declaration of intent to become United States citizens, the bill redesignates the various sections of the Army-Navy Nurses Act of 1947 and three other pertinent statutes which use the word "Women's" in appropriate references. This word is deleted throughout these statutes under the provisions of the bill.

FISCAL DATA—DEPARTMENTAL RECOMMENDATION

The enactment of this legislation would not result in any additional cost to the Government since any appointments made under the bill would be made within the existing limitations. This legislation is supported by the Department of Defense as indicated by the letter printed below and hereby made a part of this report. The departmental recommendation in this letter indicates that the Bureau of the Budget has no objection to this legislation.

MAY 11, 1955.

Hon. CARL VINSON,
Chairman, Committee on Armed Services,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H. R. 2559, 84th Congress, a bill to authorize male nurses and medical specialists to be appointed as Reserve officers. The Secretary of Defense has delegated to the Department of the Army the responsibility for expressing the views of the Department of Defense thereon.

The purpose of the proposed legislation is to provide permissive authority to appoint male nurses and medical specialists (dietitians, physical therapists, and occupational therapists) as commissioned officers in the Reserve components of the Armed Forces of the United States on the same basis as female personnel in those categories. It would also change the existing requirement of citizenship of nurses and medical specialists so as to make eligible for Reserve commissions those otherwise qualified persons who are not citizens, but have declared intent to become citizens. The proposed legislation would redesignate the Women's Medical Specialist Corps as the Army Medical Specialist Corps, and would also give credit in the computation of pay, or retired or retirement pay, for all military and naval service rendered by such persons in any branch of the Armed Forces, including active and inactive service with the Reserve components thereof.

The Department of Defense concurs in the enactment of H. R. 2559. There is a shortage of qualified nurses in both the civilian economy and the military medical services. It is believed that the legislation would assist in the development of an additional source of registered nurses, and at the same time correct certain inequities which have hindered the utilization of male nurses within the military services.

There are approximately 2,500 qualified active male nurses in the United States today. Existing law concerning nurses in the military services is based upon the assumption that the corps would be composed wholly of women, and the provisions were drafted in language to apply accordingly. Thus, many qualified male nurses are currently serving in the Armed Forces in an enlisted status in fields outside of their occupational specialty. Male nurses are actively employed by other agencies in Federal institutions. Full and proper utilization of male nurses

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could be accomplished in the case of all types of male patients, especially in light of the fact that about 80 percent of the patients in Department of Defense hospitals are male. Additionally, in time of emergency or full mobilization, the commissioning and proper employment of male nurses could prove of great value to all of the military services.

The enactment of this proposed legislation would not result in any additional cost to the Government inasmuch as any appointments made thereunder could be made within existing limitations.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this report to the Congress.

Sincerely yours,

ROBERT T. STEVENS,
Secretary of the Army.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the proposal are shown as follows (existing law proposed to be changed is enclosed in brackets, new matter is in italics).

ARMY-NAVY NURSES ACT OF 1947 (61 STAT. 41), AS AMENDED (64 STAT. 160; 66 STAT. 506; 67 STAT. 36)

TITLE I

ARMY NURSES AND [WOMEN'S] *ARMY* MEDICAL SPECIALIST CORPS

* * * * * * *

SEC. 102. (a) Effective the date of enactment of this Act, there is established in the Army Medical Service of the Regular Army, a [Women's] *Army* Medical Specialist Corps, which shall consist of a Dietitian Section, a Physical Therapist Section, and an Occupational Therapist Section, and which shall perform such services as may be prescribed by the Secretary of the Army. The authorized strength of the [Women's] *Army* Medical Specialist Corps, Regular Army, shall be in the ratio of nine-tenths of a member thereof to every one thousand persons in the total authorized strength of the Regular Army, but not less than a minimum authorized strength of four hundred and nine officers in permanent commissioned grades. Not to exceed 5 per centum of the authorized commissioned strength may be in the permanent commissioned grade of major and the remainder of such authorized commissioned strength shall be in permanent commissioned grades of captain to second lieutenant, inclusive.

(b) From the officers permanently commissioned in such [Women's] *Army* Medical Specialist Corps, the Secretary of the Army shall appoint (1) the Chief of [Women's] *Army* Medical Specialist Corps, who shall serve as such Chief during his pleasure, and who without vacation of her permanent grade, shall have the temporary rank, pay, and allowances of a colonel while so serving and (2) three Assistant Chiefs of the [Women's] *Army* Medical Specialist Corps, who shall be the chiefs of the sections of the [Women's] *Army* Medical Specialist Corps, to serve as such Assistant Chiefs during his pleasure, and who, without vacation of their permanent grades, shall have the temporary rank, pay, and allowances of a lieutenant colonel while so serving.

(c) Commissioned officers of the Regular Army in the [Women's] *Army* Medical Specialist Corps, and commissioned officers of the Regular Air Force appointed with a view to designation as women medical specialists, shall be appointed by the President, by and with the advice and consent of the Senate, from female citizens of the United States who have attained the age of twenty-one years. To be eligible for appointment under this subsection, a person must have the physical and other qualifications prescribed by the Secretary of the Army or the Secretary of the Air Force for the appropriate armed force. A person appointed under this subsection shall be appointed in the grade of—

(1) second lieutenant, if she is not more than twenty-seven years of age on the date of nomination by the President and is not qualified for appointment as a first lieutenant under clause (2); or

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(2) first lieutenant, if she is qualified under regulations issued by the appropriate Secretary and is not more than thirty years of age on the date of nomination by the President.

The maximum ages specified in clauses (1) and (2) are increased by the period of active Federal commissioned service performed after December 31, 1947. However, such an age may not be so increased by more than five years.

SEC. 103. (a) * * *

(b) Until a date one year following the date of enactment of this Act, any person who is a female citizen of the United States, who is over twenty-one years of age, and who meets the physical and other qualifications prescribed by the Secretary of the Army, may be appointed a commissioned officer in the Army Nurse Corps, or the [Women's] *Army* Medical Specialist Corps, Regular Army, established by this Act, in a grade as prescribed in section 104 hereof: *Provided*, That a person appointed a commissioned officer in the Army Nurse Corps under this provision shall not have attained the age of thirty-five on the date of nomination by the President, shall be otherwise qualified and, during any of the wars in which the United States is presently engaged, shall have served honorably on active duty as a commissioned officer of the Army of the United States, pursuant to the Act of June 22, 1944 (58 Stat. 324), or as a member, including the status of Reserve nurse, of the Army Nurse Corps created by chapter V of the Act of July 9, 1918 (40 Stat. 879): *Provided further*, That no person shall be appointed a commissioned officer in the [Women's] *Army* Medical Specialist Corps under this section, except a person otherwise qualified, who during any of the wars in which the United States was engaged served honorably on active duty as a dietitian or physical therapist with the Medical Department of the Army of the United States appointed pursuant to the Act of June 22, 1944 (58 Stat. 324), or who served honorably as an occupational therapist with the Medical Department of the Army in the status of a civilian employee.

* * * * * * *

SEC. 106. Relative rank among commissioned officers of the Army Nurse Corps and the [Women's] *Army* Medical Specialist Corps, within each corps, and between such officers and other commissioned officers of the Regular Army, shall be determined in the manner now or hereafter prescribed by law for the determination of relative rank among other commissioned officers of the Regular Army. Commissioned officers of each such corps shall not be entitled, by virtue of their rank, to command, except within their respective corps, and over such persons as may be placed under their charge by competent authority, but may be assigned by the Secretary of the Army to perform such duties as the interests of the service may require.

SEC. 107. (a) Officers of the Army Nurse Corps and [Women's] *Army* Medical Specialist Corps, Regular Army, shall be promoted to the permanent grade of first lieutenant upon the completion of the length of service now or hereafter prescribed for promotion of promotion-list officers to the grade of first lieutenant.

(b) The Secretary of the Army shall prescribe the authorized number of officers in the grade of captain in the Army Nurse Corps and in the [Women's] *Army* Medical Specialist Corps. Officers of the Army Nurse Corps and [Women's] *Army* Medical Specialist Corps, Regular Army, shall be promoted to the permanent grade of captain or eliminated from the active list of such corps upon second failure of promotion to the grade of captain and awarded severance pay if so eliminated in the same manner as is prescribed by law for officers whose names are carried on the Army promotion list. Authorized numbers in the grade of captain in these corps may be exceeded when necessary in order that officers selected and recommended for promotion to that grade may be promoted upon completion of seven years' service even though no vacancies exist in the authorized numbers in such grade in the same manner as is prescribed for officers whose names are carried on the Army promotion list.

(c) Promotion of officers of the Army Nurse Corps to the permanent grades of major and lieutenant colonel, and of the [Women's] *Army* Medical Specialist Corps to the permanent grade of major, shall be by selection to fill vacancies in these grades under regulations prescribed by the Secretary of the Army.

SEC. 108. (a) An officer on the active list of either the Army Nurse Corps or the [Women's] *Army* Medical Specialist Corps, Regular Army, after twenty years' active Federal service in the armed forces of the United States, may upon her request, at the discretion of the Secretary of the Army, be retired and shall receive retired pay equal to 2½ per centum of the base and longevity pay she would receive if serving on active duty in the grade in which retired, multiplied by a number equal to the number of years of such active Federal service: *Provided*,

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That in computing the number of years of such service for the purpose of determining the percentage of active-duty pay, and for no other purpose, any fractional part of a year amounting to six months or more shall be counted as a complete year: *Provided further*, That in no event shall such retired pay exceed 75 per centum of such base and longevity pay: *And provided further*, That at any time after such an officer shall have attained the age of fifty, if her permanent grade is below that of major, or at any time after such an officer shall have attained the age of fifty-five, if her permanent grade is major or higher, or after twenty-years' active Federal service in the armed forces of the United States, whichever is later she may, at the discretion of the Secretary of the Army without her consent, be retired and upon such retirement she shall receive retired pay equal to 2½ per centum of the base and longevity pay she would receive it serving on active duty in the grade in which retired, multiplied by a number equal to the number of years of her active Federal service, but in no event shall such retired pay exceed 75 per centum of such base and longevity pay.

(b) Unless entitled to higher rank or pay under any provision of law, each commissioned officer, who shall have served for two and one-half years or more as Chief of the Army Nurse Corps, Regular Army, or as Chief of the [Women's] *Army* Medical Specialist Corps, Regular Army, may, in the discretion of the President, be retired with the rank held by her while so serving, and shall receive retired pay at the rate prescribed by law, computed on the basis of the base and longevity pay which she would receive if serving on active duty with such rank, and if thereafter recalled to active service, shall be recalled in such rank and shall constitute an additional number therein: *Provided*, That the commissioned officer first appointed as Chief of the Army Nurse Corps and the commissioned officer first appointed as Chief of the [Women's] *Army* Medical Specialist Corps, pursuant to this Act, shall, without limitation as to the time they shall serve in such capacities, upon retirement be retired with the rank held while so serving, and shall receive retired pay at the rate prescribed by law, computed on the basis of the base and longevity pay they would receive if serving on active duty with such rank.

* * * * * * *

SEC. 114. Effective the date of enactment of this Act, there shall be established in the Army Reserve Corps of the Army of the United States an Army Nurse Corps Section and a [Women's] *Army* Medical Specialist Corps Section.

SEC. 115. Except as otherwise specifically provided, all laws and regulations now or hereafter applicable to commissioned officers and former commissioned officers of the Army Reserve, and to their dependents and beneficiaries, shall, in like cases, be applicable respectively to commissioned officers and former commissioned officers of the Army Nurse Corps Section and the [Women's] *Army* Medical Specialist Corps Section of the Army Reserve, and to their dependents and beneficiaries.

SEC. 116. Appointments of Reserve officers for service in the Army Nurse Corps Section and the [Women's] *Army* Medical Specialist Corps Section of the Army Reserve may be made in such grades and under such regulations as may be prescribed by the Secretary of the Army, from [female citizens] *male or female citizens, or male or female persons who have made a declaration of intent to become citizens* of the United States, who have attained the age of twenty-one years, and who possess such physical and other qualifications as may be prescribed by the Secretary of the Army: *Provided*, That female officers appointed pursuant to the Act of June 22, 1944, and honorably separated from the service thereafter may, if otherwise qualified, be appointed as Reserve officers in the highest grade satisfactorily held by them in active service.

* * * * * * *

ARMY ORGANIZATION ACT OF 1950 (64 STAT. 270)

ARMY MEDICAL SERVICE

SEC. 307. There shall be in the Army an Army Medical Service, which shall consist of the Surgeon General and the Assistant Surgeons General authorized by sections 206 and 208, respectively, of this Act, the Medical Corps, the Dental Corps, the Veterinary Corps, the Medical Service Corps, the Army Nurse Corps, and the [Women's] *Army* Medical Specialist Corps. Each such corps shall consist of Regular Army officers appointed and commissioned therein and such other members of the Army as may be assigned thereto by the Secretary of the Army; but the Secretary shall not assign to any corps of the Army Medical

Service any officer who has been appointed and commissioned in some other corps of the Army Medical Service, or in some other special branch, or in the Regular Army without specification of branch. The Medical Service Corps, the Army Nurse Corps, and the [Women's] *Army* Medical Specialist Corps shall include the Chiefs and Assistant Chiefs, and shall include the sections, as now prescribed by law.

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AIR FORCE ORGANIZATION ACT OF 1951 (65 STAT. 330)

* * * * * * *

SEC. 307. (a) Qualified members of the Air Force shall be designated to perform medical, dental, medical service, veterinary, nursing, [women's] medical specialist, judge advocate, chaplain, or other duties requiring special training or experience, under regulations prescribed by the Secretary of the Air Force. Qualifications for designations under this subsection shall be prescribed by the Secretary of the Air Force in conformity with qualifications specified in any of the following statutory provisions for the respective types of duties: * * *

* * * * * * *

ARMY AND AIR FORCE VITALIZATION AND RETIREMENT EQUALIZATION ACT OF 1948 (62 STAT. 1085)

SEC. 203. (a) * * *

(d) Each member of the Army Nurse Corps, established by chapter V of the Act of July 9, 1918 (40 Stat. 879), as amended, each female dietitian or physical therapist appointed pursuant to the Act of December 22, 1942 (56 Stat. 1072), each female officer appointed pursuant to the Act of June 22, 1944 (58 Stat. 324), and each member of the Army Nurse Corps or [Women's] *Army* Medical Specialist Corps appointed pursuant to Public Law 36, Eightieth Congress (61 Stat. 41), heretofore or hereafter retired under any provision of law shall be advanced on the retired list to a grade with relative rank equal to the highest grade in which, or to the highest relative or commissioned rank with which, she served satisfactorily on active duty, as determined by the Secretary of the Army, during the period September 9, 1940, to June 30, 1946, whichever is higher, and shall receive retired pay at the rate prescribed by law computed on the basis of the base and longevity pay which she would receive if serving on active duty in such grade or with such relative or commissioned rank.

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Calendar No. 1245

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1230

INCREASING ANNUITIES OF CERTAIN RETIRED CIVILIAN MEMBERS OF TEACHING STAFFS OF UNITED STATES NAVAL ACADEMY AND UNITED STATED NAVAL POSTGRADUATE SCHOOL

JULY 28, 1955.—Ordered to be printed

Mr. SALTONSTALL, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 4672]

The Committee on Armed Services, to whom was referred the bill (H. R. 4672) to increase the annuities of certain retired civilian members of the teaching staffs of the United States Naval Academy and the United States Naval Postgraduate School, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE LEGISLATION

The purpose of the proposed legislation is to authorize increased annuities to retired civilian faculty members of the Naval Academy and the Naval Postgraduate School comparable to the increases which have been given retired employees under the Federal civil-service retirement system.

BACKGROUND

In 1948 Public Law 426 of the 80th Congress authorized an increase of $300 to all persons then on the civil-service retirement rolls. In 1952 Public Law 555 of the 82d Congress authorized with respect to persons then on the civil service retirement rolls an annual increase of $324 with a limitation that the retired pay of any person could not be over $2,160.

The faculty members of the Naval Academy and Naval Postgraduate School are not in the Federal civil-service retirement system but have a retirement system of their own under which both the faculty members and the Navy Department contribute. No increases comparable to those received by civil-service employees have been awarded to the retired faculty members of these two schools.

EFFECT OF THE BILL

The effect of this bill would be to grant an increase of $600 a year to 6 of the retired faculty members and an increase of $300 to 4 of the retired faculty members with a total additional annual cost of $4,800.

The bill divides the increases into two parts. Faculty members retired prior to April 1, 1948. would have their annuities increased by $300 per year. In addition all faculty members retired before the effective date of this bill would have their annuities increased by $300 with the limitation that no annuity would be in excess of $2,160 annually.

The bill further provides that the increased annuities authorized under the bill would not operate to increase the annuities of the survivors. This section was comparable to the limitation contained in the legislation increasing the civil-service annuities.

FISCAL DATA AND DEPARTMENTAL RECOMMENDATION

The enactment of the proposed legislation will result in an additional annual cost of $4,800. This bill is a part of the Department of Defense legislative program of 1955 as indicated by the letter printed below and hereby made a part of this report. The letter indicates that the Bureau of the Budget imposes no objection.

DEPARTMENT OF THE NAVY,
Washington, D. C., February 22, 1955.

Hon. RICHARD M. NIXON,
President of the Senate,
United States Senate, Washington, D. C.

MY DEAR MR. PRESIDENT: There is forwarded herewith a draft of legislation to increase the annuities of certain retired members of the teaching staffs of the United States Naval Academy and the United States Naval Postgraduate School.

This proposal is part of the Department of Defense legislative program for 1955, and the Bureau of the Budget has advised that it has no objection to the submission of this proposal for the consideration of the Congress. The Department of the Navy has been designated as the representative of the Department of Defense for this legislation. It is recommended that this proposal be enacted by the Congress.

PURPOSE OF THE LEGISLATION

The purpose of this proposed legislation is to authorize cost-of-living increases in the annuities of those civilian members of the teaching staffs of the Naval Academy and the Naval Postgraduate School, now on the retired list, comparable with the cost-of-living increases given persons retired under the civil service retirement system in 1948 and in 1952.

The retirement annuities for the civilian members of the teaching staffs of the Naval Academy and the Naval Postgraduate School are provided by the act of January 16, 1936 (49 Stat. 1092), as amended (34 U. S. C. 1073 et seq.), which is administered by the Department of the Navy.

Under the act of January 16, 1936, the civilian members of the teaching staffs of the Naval Academy and the Naval Postgraduate School are required to carry, as part of their contract of employment, an annuity policy having no cash surrender or loan provisions. These contracts are carried with the Teachers Insurance & Annuity Association of America. Each civilian faculty member is required to register with the Navy Allotment Office a monthly allotment equivalent in amount to 10 percent of his monthly salary and for each monthly allotment so registered the Department of the Navy is required to credit the employee's pay account with an additional sum equivalent to 5 percent of his monthly salary. The annuities provided by the act, as it was amended by the act of November 28, 1943 (57 Stat. 594), are at the rate of 1½ percent of the employee's average salary during any 5 consecutive years multiplied by the number of years of service, not exceed-

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ing 35 years, and where the annuity purchased from the Teachers Insurance & Annuity Association does not equal that amount, the Department of the Navy is required to pay such additional sum as will bring the annuity to that total.

When the act of January 16, 1936, was originally enacted the only retired annuities it provided for persons thereafter employed as civilian members of the teaching staffs of the Naval Academy and the Naval Postgraduate School were those purchased from the Teachers Insurance & Annuity Association. For the civilians who were members of the teaching staffs of those schools on January 16, 1936, however, provision was made that where, upon reaching retirement age, the purchased annuity was not sufficient to provide an annuity of $1,200 a year, the difference would be made up by the Department of the Navy. Because of the inadequacy of the purchased annuities, the act of January 16, 1936, was amended by the act of November 28, 1943 (57 Stat. 594), to adopt the minimum annuity retirement provisions then governing civil service retirement annuities, that is, an annuity equal to the average annual basic salary received by the employee during any 5 consecutive years of allowable service, at the option of the employee, multiplied by the number of years of service, not exceeding 35 years, and divided by 70. At that time provision was also made that the Department of the Navy should pay to the retired civilian faculty members such amounts as when added to the purchased annuities would make up a total annuity determined by this minimum formula. These amendments, however, were applicable only to persons retired after November 28, 1943, and did not affect the annuities of the civilian faculty members retired before that date. This latter group continued to receive annuities of $1,200 a year.

Although cost-of-living increases were given in 1948 and in 1952 to persons then in a retired status under the civil-service retirement system, no similar increases were given to the civilian faculty members of the Naval Academy and Naval Postgraduate School then in a retired status. The act of February 28, 1948 (62 Stat. 52), gave to persons in a retired status under the civil-service retirement system on the effective date of that act, April 1, 1948, an increase in their annuities not to exceed $300 a year. The act of July 16, 1952 (66 Stat. 722), provided a further increase not to exceed $324 a year for persons then in a retired status under the civil-service retirement system, with the limitation that no annuity should be increased beyond $2,160.

The subject proposed legislation would provide cost-of-living increases in the annuities of retired members of the civilian faculties of the Naval Academy and the Naval Postgraduate School comparable with those granted under the act of February 28, 1948, and the act of July 16, 1952, to retirees under the civil-service retirement system. It would provide an increase of $300 a year to those civilian faculty members retired before April 1, 1948. There are now 10 members who were so retired. It would also give, in addition to that increase, an increase of $300 a year to all civilian faculty members now on the retired list, with the limitation that this further increase shall not operate to increase any annuity to an amount in excess of $2,160. With that limitation six members would receive this latter increase.

COST AND BUDGET DATA

Enactment of this proposed legislation would result in an annual additional cost of $4,800, which represents a $600-a-year increase in 6 annuities and a $300-a-year increase in 4 annuities.

Sincerely yours,

C. S. THOMAS.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is printed in parallel columns the text of provisions of existing law which would be amended by the various provisions of the bill.

EXISTING LAW

Act of January 16, 1936 (49 Stat. 1092), as amended

SECTION 1. That civilian members of the teaching staffs of the United States Naval Academy and Postgraduate School, whose employment commences from and after the date of approval of this Act, shall, as a part of their contracts of employment, be required to carry, during such employment, a deferred annuity policy, having no cash surrender or loan provision, from a joint-stock life insurance corporation, incorporated under the laws of any State of the United States, which has a charter restriction that its business must be conducted without profit to its stockholders.

SEC. 2. Toward the purchase of said deferred annuity, each member of such teaching staffs shall be required to register a monthly allotment throughout the Navy Allotment Office, Navy Department, Washington, District of Columbia, equivalent in amount to 10 per centum of his monthly basic salary: *Provided*, That for each month such allotment is registered, the pay accounts of such member shall be credited monthly from such appropriations as may be made for this purpose with an additional sum equivalent to 5 per centum of his monthly basic salary.

SEC. 3. The retiring age for all civilian members of the teaching staffs set forth in this Act shall be the 30th day of June following their sixty-fifth birthday, or any date between their sixty-fifth birthday and the following 30th day of June upon which their employment may be terminated: *Provided*, That in the discretion of the Secretary of the Navy, such retiring age may be extended to not beyond the seventieth birthday in individual and special cases.

SEC. 4. Civilian members of the teaching staffs of the Naval Academy and Postgraduate School, who are so employed on the date of approval of this Act, may, at their own request, if made within sixty days thereafter to the Secretary of the Navy, participate in the benefits under the provisions of sections 1 and 2 of this Act. Each such member of the teaching staffs who so participate and who, upon reaching the date of retirement as set forth in section 3 of this Act has an insufficient accumulation of premium payments to his credit to have purchased for him an annuity of $1,200 per annum, shall be paid by the Secretary of the Navy from such appropriations as may be made for such purpose such amounts that, together with his

THE BILL

SECTION 1. * * * That the Act of January 16, 1936 (49 Stat. 1092), as amended, is further amended by adding thereto the following new section:

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purchased annuity, will make his total annuity $1,200 per annum. Each such member of the teaching staffs, who so participates and who is forced to retire for physical incapacity prior to his reaching the prescribed retirement age, shall be paid by the Secretary of the Navy, from such appropriations as may be made for such purpose, such amounts which together with his purchased annuity, will make his total annuity equivalent to an amount, not exceeding $1,200 per annum, which would have been due him had the provisions of this Act been in effect on the date of his original employment: *Provided*, That each such member of the teaching staffs who is so employed on the date of approval of this Act and who is entitled to retirement and retirement benefits under the provisions of the Civil Service Retirement Act of 1920, as amended, may elect to continue thereunder, or he may elect to participate in the benefits under the provisions of this section; but in the event that he elects to participate in the benefits under the provisions of this section, no further deductions shall be made from his pay for credit to the civil-service retirement fund, and the Civil Service Commission shall close his account with such fund under the same provisions as though he voluntarily separated himself from the Federal service, except that the amount of such credit will be retained in the civil-service retirement fund and remain subject to claim by and payment to, him, his beneficiary, or his estate only in the event of his separation from the Federal service by death or otherwise before retirement under the provisions of this Act, and then only in the amount by which such credit exceeds the total amount of 5 per centum of his basic salary which may have been credited to his monthly pay accounts under the provisions of section 2 of this Act.

THE BILL

SEC. 4A. Each civilian member of the teaching staffs who is hereafter retired on or after reaching the age of retirement set forth in section 3 of this Act shall be paid a life annuity, terminable on his death, at the rate of the following total annual amount: The average annual basic salary, pay, or compensation received by such civilian teacher during any five consecutive years of allowable service at the option of such teacher, multiplied by the number of years of service, not exceeding thirty-five years, and divided by seventy. The retirement annuity payable to each such retired teacher, under any annuity policy provided for by this Act, or under the

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provisions of section 4 of this Act, shall be counted as payable on account of the retirement annuity provided in this section 4A, and the Secretary of the Navy shall pay to each such retired teacher, from such appropriations as may be made for the purpose, such additional sums, if any, as will bring the total annual sum paid to such retired teacher to the total annual amount prescribed in this section 4A: *Provided*, That nothing herein contained shall operate to reduce the retirement annuity which would have been payable to any such retired teacher if this section had not been enacted: *And provided further*, That no payments under this section shall be made to any member of said staffs who shall be entitled to retirement and retirement benefits under the provisions of the Civil Service Retirement Act of 1920, as amended, and shall elect, or shall have elected, to continue thereunder.

SEC. 4B. Any civilian member of the teaching staffs to whom this Act applies who shall have served for a total period of not less than five years, and who, before becoming eligible for retirement under the conditions defined in the preceding sections hereof, becomes totally disabled for useful and efficient service in his position, by reason of disease or injury not due to vicious habits, intemperance, or willful misconduct on the part of the civilian member of the teaching staffs, shall upon his own application or upon the request or order of the Secretary of the Navy be retired on an annuity computed in accordance with provisions of section 4A of this Act. The annuity which the Government pays to a civilian teacher who is forced to retire under this section shall be the difference between his total annuity as computed under section 4A of this Act and the immediate life annuity to which he is entitled at the time of such retirement under the annuity policy provided by the Act. Every annuitant retired under the provisions of this section, unless the disability for which he was retired be permanent in character, shall at the expiration of one year from the date of such retirement and annually thereafter, until reaching retirement age as defined in section 3 hereof, be examined by a board of medical officers appointed by the Superintendent of the Naval Academy. If the annuitant is found to be sufficiently recovered for useful and efficient service in his position and if he is offered reemployment by the Superintendent of the Naval Academy, the

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annuity being paid him by the Government shall cease immediately. If an annuitant who has been retired under the provisions of this section is subsequently reemployed by the Government, the annuity being paid to him by the Government shall be terminated. If the annuitant is reemployed as a civilian teacher at the Naval Academy, the annuity which the Government will pay him at the time of subsequent retirement shall be the difference between the total annuity, computed under section 4A of this Act, and the immediate life annuity which the total premiums, paid on his annuity contracts provided by this Act, would purchase. No person shall be entitled to receive an annuity under the provisions of this Act, and compensation under the provisions of the Act of September 7, 1916, entitled "An Act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes," covering the same period of time; but this provision shall not bar the right of any claimant to the greater benefit conferred by either Act for any part of the same period.

SEC. 4C. Any civilian member of the teaching staffs retiring under the provisions of this Act, as amended, may at the time of his retirement elect to receive in lieu of the life annuity to be paid by the Secretary of the Navy under the provisions of this Act a reduced annuity payable to him during his life, and an annuity after his death payable to his beneficiary, duly designated in writing and filed with the Secretary of the Navy at the time of retirement, during the life of such beneficiary (a) equal to, or (b) 50 per centum of such reduced annuity and upon the death of such surviving beneficiary all payments shall cease and no further annuities shall be due or payable. The amounts of these two annuities shall be such that their combined actuarial value on the date of retirement as determined under the provisions of the Civil Service Retirement Act shall be the same as the actuarial value of the single life annuity provided by this Act.

SEC. 5. Civilian members of the teaching staffs of the Naval Academy and Postgraduate School shall include instructors, assistant chief instructors, chief instructors, assistant professors, associate professors, professors, and senior professors.

SEC. 6. The Secretary of the Navy is authorized and directed to make such regulations as may be necessary to carry out the provisions of this Act. There

THE BILL

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is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act.

THE BILL

"SEC. 7. (a) The annuities payable under this Act to civilian members of the teaching staffs of the United States Naval Academy and the United States Naval Postgraduate School retired before April 1, 1948, are hereby increased by $300 a year.

"(b) In addition to the increase in annuities authorized by subsection (a), the annuities payable under this Act to all civilian members of the teaching staffs of the United States Naval Academy and the United States Naval Postgraduate School retired before the date of enactment of this Act shall be increased by $300 a year. No such annuity, however, shall thereby be increased to an amount in excess of $2,160.

"(c) The increase in the annuities of retired members of the teaching staffs of the United States Naval Academy and the United States Naval Postgraduate School authorized by subsection (b) shall not operate to increase the annuities of their survivors."

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Calendar No. 1246

84TH CONGRESS, 1st Session | SENATE | REPORT No. 1231

AMENDMENTS TO COMMUNICATIONS ACT OF 1934 (PROTEST SECTION)

JULY 28, 1955.—Ordered to be printed

Mr. PASTORE, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany H. R. 5614]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 5614) to amend section 309 (c) of the Communications Act of 1934 in regard to protests of grants of instruments of authorization without hearing, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The bill H. R. 5614 was passed by the House of Representatives on July 21, 1955. It amended section 309 (c) of the Communications Act of 1934, as amended.

S. 1648, a companion bill, was introduced in the Senate at the request of the Federal Communications Commission. Detailed hearings were held on S. 1648 by the Subcommittee on Communications and the bill reported favorably to the full committee in the exact form as H. R. 5614 here reported.

GENERAL STATEMENT

H. R. 5614 amends section 309 (c) of the Communications Act of 1934, as amended, so as to remove ambiguities; to make definite and certain, procedural and legal steps involved in protests; and to prevent the abuse of the protest procedure by persons who in furtherance of their own private economic interests are in a position to use the existing provisions of the section to delay the institution of radio or television services which the Federal Communications Commission, without a hearing, has approved as being in the public interest. Generally, the bill attempts to remedy the situation by three principal means:

(1) Eliminating the necessity for holding full evidentiary hearings with respect to facts alleged by a protestant which, even if

proven to be true, would not constitute grounds for setting aside the grant which the Commission has made;

(2) Giving the Commission some discretion to keep in effect the authorization being protested where the Commission finds that the public interest requires the grant to remain in effect, but requiring the Commission to affirmatively find and set forth in a decision that the public interest requires the grant to remain in effect; and

(3) Authority to the Commission to redraft issues urged by the protestant in accordance with the facts or substantive matters alleged in the protest.

Section 309 (c) was enacted by the Congress as a part of the Communications Act Amendments, 1952, after extensive and exhaustive hearings. The FCC opposed the enactment of section 309 (c). The Congress, in adopting the provision, attempted to provide a means whereby any "party in interest" would have an opportunity to obtain a hearing before the Commission where he raises legitimate public interest considerations which indicate that the authorization granted without hearing should not have been made. Under the present statute a protestant must satisfy the Commission that he is a "party in interest" and that he has specified with particularity the facts, matters, and things which he relies upon. If the protestant meets these threshold requirements, the statute requires that the application involved must be set for hearing on the issues set forth in the protest, as well as upon any other issues specified by the Commission. Pending the hearing and the Commission's decision on the protest, the Commission is required to postpone the effective date of the authorization which it has granted. The statute provides an exception to this mandatory stay only where the Commission finds that the authorization involved is necessary to the maintenance or conduct of an existing radio or television service. In the latter event, the Commission is permitted to keep the authorization protested in effect pending the Commission's decision after a hearing.

After considering all of the data and testimony which has been presented to it concerning how the existing provisions have operated, the committee is convinced that the public interest requires prompt amendment of section 309 (c). This conclusion is based primarily on two factors:

(1) Hearings which can in no way serve the public interest may have to be held. Under the court decisions, if a protestant establishes himself as a party in interest and sets forth with particularity the facts he relies upon, there is serious question whether the Commission has any choice but to designate the application for a full evidentiary hearing, regardless of the issues raised by the protest. (See *Clarksburg Publishing Company* v. *Federal Communications Commission*, case No. 12441, U. S. App. D. C., decided June 9, 1955.) At the present time, the Commission may be required to hold a full evidentiary hearing, even though the facts alleged by the protestant, even if proven true, would not be grounds for setting aside the grant previously made by the Commission.

(2) The public may be deprived unnecessarily for a prolonged period of time of new radio or television service pending the outcome of the protest hearing. The Commission is now required, except where the continuance of an existing service is concerned, to stay the effective-

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ness of any protested grant until it issues a final decision on the protest after a full evidentiary hearing. Even where there is a pressing need for the service in question and little or no likelihood exists that there will be any grounds shown for setting aside the grant, the Commission is given no discretion to consider whether the public interest requires the grant to remain in effect.

The committee also wishes to call attention to the fact that the term "party in interest" encompasses a wide variety of persons, all of whom have standing to file protests, and thus have the power to force the holding of full evidentiary hearings and to delay the institution of new radio and television service. A radio station licensee may protest the grant without hearing of a radio station authorization or a television station authorization, and, likewise, a television station licensee may protest another television authorization. Moreover, even a newspaper with no radio interests is a party in interest with standing to protest the grant of radio or television authorizations which it alleges will cause it economic injury.

However, H. R. 5614 does not attempt to limit those who have standing as a "party in interest" to file protests. It is the committee's opinion that such a limitation is not required if the Commission is given authority to curb the abuses of the protest procedure through the power, in appropriate cases, to dispose of protests without holding a full evidentiary hearing, and the authority to continue protested grants in effect where the public interest so requires.

In the first place, this bill would amend section 309 (c) to make it perfectly clear that the Commission does have the authority to dispose of protests without holding a full evidentiary hearing where the Commission finds that the facts alleged in the protest, even if proven true, would not constitute grounds for setting aside the grant being protested. Thus, the amended section 309 (c) would permit the Commission to demur to any or all of the issues which the protestant has raised. This authority would be akin to the power traditionally exercised by the courts to dispose of appropriate cases by a summary judgment. The committee believes that such authority is necessary in order that unnecessary evidentiary hearings may be avoided, and to prevent protestants from employing the protest procedure merely as a means of keeping a competitive radio or television service off the air.

Secondly, section 309 (c) as amended by this bill (H. R. 5614) would permit the Commission, even where it is necessary to hold a full evidentiary hearing, to continue the protested grant in effect if the Commission affirmatively finds that the public interest so requires and sets forth the reasons for its determination in its decision. The committee believes it is necessary and appropriate that the Commission be given this limited discretion. It must be recognized that there will be cases where protestants will plead facts to which the Commission cannot demur, although, on the basis of all of the facts available, it is clear that the likelihood is extremely remote that the protested grant will ultimately have to be set aside. In such circumstances, the Commission should not be precluded from considering whether the public interest requires the protested authorization to remain in effect, but the Commission must affirmatively find and set forth reasons in its decisions as to why the public interest requires the grant to remain in effect.

The committee is well aware of the very real inconvenience to the public which would result if a protested grant is permitted to stay in effect and it is ultimately determined that the grant must be set aside and the service terminated. However, in exercising its limited discretion to continue a protested authorization in effect, the Commission would have to consider not only the need for the new service in question, but also the likelihood that the grant in question would ultimately have to be set aside. The committee feels that these requirements will minimize the possibility of the public being deprived of a service on which it has come to rely. In any event, we do not believe that, to insure against the remote possibility that an operating service may have to be taken off the air, it is necessary or advisable to preclude any operation by a station pending a protest hearing regardless of any countervailing public interest considerations.

Your committee was specifically concerned about the possible retroactive effect of enactment of this legislation upon pending protest proceedings. The Commission through its witnesses and in a letter made part of this report stated that where the Commission has already made a determination that a protest should be set for evidentiary hearing or that the effectiveness of a grant should be postponed pending such hearing and the matter has proceeded on this basis, reconsideration of these determinations would not appear to be required and would normally appear to serve no public purpose. Your committee concurs with this view and construes this to apply to any protest on file with the Commission prior to the enactment of this bill. In addition, your committee agrees with the Commission's view, however, that where it has finally acted on a protest and denied it, either with or without an evidentiary hearing, and where, as a result, the grantee has built his station and gone on the air, the Commission should have the authority, in the event its decision is subsequently reversed on appeal, to consider such further proceedings as may be required by the court's decision in the light of the amended provisions of section 309 (c), if they have been enacted into law. Your committee feels this special authority is necessary in view of the real problems involved of depriving the public of established service upon which it has come to rely. Your committee feels, therefore, that the retroactive effect of this legislation shall apply only to those situations where the stations are now on the air and shall not apply to any other protest pending prior to the enactment of this bill.

AMENDMENTS

The Federal Communications Bar Association, in submitting its testimony on this bill, as well as on the companion bill, S. 1648, proposed two amendments which were adopted and made part of H. R. 5614. These amendments were reported favorably by the Subcommittee on Communications considering S. 1648. One of the amendments provides that the Commission shall afford the protestant an opportunity for oral argument before it may eliminate as insufficient any issue which has been raised. The Commission indicated that it has no objection to this requirement being written into the statute.

However, a question arose at the hearings concerning whether the oral argument required by this amendment would have to be held within 30 days from the date the protest is filed. The committee is in

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agreement with the views expressed by the Commission that the amendment should not be construed as imposing such a requirement. Your committee believes the language of the bill, as amended, would permit the Commission to schedule oral argument upon the issues which it believes may be demurrable at the earliest practicable time after the Commission issues its initial decision as to the nature and status of the protest. The Commission would, of course, have to decide within the 30-day period not only whether the protestant was a party in interest and had specified with particularity why it believed the grant should not be made, but also whether particular issues should be immediately set for evidentiary hearing or designated for oral argument looking toward a decision on demurrer, and whether the grant in question should be stayed.

Your committee believes that any other interpretation of this amendment would make the entire procedure unworkable. Your committee is convinced that in many cases the Commission would not be able to consider a protest and the oppositions which may be filed thereto, issue an order designating some or a f the issues for oral argument, hold this oral argument, and then issue a further decision disposing of the matters which were the subject of the oral argument, all within a 30-day period following the filing of the protest. Many of the protests which have been and will be filed contain a number of issues, some of which, even though they may be demurrable, involve serious and difficult questions of law and policy. The entire objective of affording a protesting party oral argument before demurring to any of the issues which he has raised would be defeated if the Commission were to be afforded inadequate time to give the necessary consideration to the arguments advanced by the party. In this connection it is important to note that once the Commission designates a protest either for evidentiary hearing or for oral argument, the provisions of the Communications Act with respect to separation of functions (secs. 5 (c) and 409 (c)) become immediately applicable. As a result, the Commission would not be able to receive assistance in disposing of the difficult questions which may arise at the oral argument from those members of the staff who had had some familiarity with these problems, prior to its designation for oral argument, but would have to rely upon its review staff, which would have no previous contact or familiarity with the case. The committee has been assured by the Commission that it will expedite such proceedings.

Under the existing statute there has been some doubt as to the Commission's authority to redraft the issues specified by the protestant in his protest. Such authority to redraft the issues is considered necessary since those set forth by the protestant may not accurately reflect the facts alleged in the protest and may include matters which are irrelevant to a determination as to whether the grant in question is in the public interest.

The other proposed amendment to the bill (H. R. 5614) as well as S. 1648, (1) spells out the right of the Commission to redraft issues based on the facts alleged in the protest, and (2) makes it clear who has the burden of proof with respect to the issues in a protest hearing. The Commission has agreed to these changes.

The committee heard detailed testimony from the Federal Communications Commission, a representative of the Federal Communications Bar Association, a representative of the UHF Industry Coor-

dinating Committee, and from a number of individual broadcast operators. Although this testimony was heard on S. 1648, it applies equally to H. R. 5614 because both bills are exactly the same.

The comments of the Federal Communications Commission, Department of Justice, and the FCC Bar Association are set forth below.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D. C., March 21, 1955.

The VICE PRESIDENT,
United States Senate,
Washington, D. C.

DEAR MR. VICE PRESIDENT: The Commission wishes to recommend for the consideration of the Congress a proposed amendment to section 309 (c) of the Communications Act of 1934, as amended. A proposed bill is attached as an appendix to this letter. The objective of the proposed legislation is to clarify the so-called protest rule contained in section 309 (c) which was incorporated into the Communications Act by the Communications Act Amendments, 1952, 66 Stat. 711, so as to obviate the use of the new procedure as a device for delaying radio station grants which are in the public interest while at the same time retaining the rule's primary objective of providing interested parties with a means by which they may bring to the Commission's attention bona fide questions concerning grants made without hearing. The Commission proposed a bill to amend section 309 (c) in the 83d Congress. It was introduced in that Congress as H. R. 7795, but no action on the bill was taken.

Section 309 (c) now provides that all authorizations granted without a hearing shall remain subject to protest by any "party in interest" for a 30-day period. The protest must show that the protestant is a party in interest and must specify with particularity the facts relied on to sustain the protest. Within 30 days from the date of filing of a protest, the Commission must determine whether the protest meets these requirements. If the Commission so finds, it is directed to set the application involved for hearing on the issues specified in the protest as well as such additional issues as the Commission may prescribe. The protestant has the burden of proof and the burden of proceeding with the evidence on issues set forth in the protest and not specifically adopted by the Commission. The Commission is directed to expedite protest hearing cases, and the effective date of the Commission's action protested is to be postponed until the Commission's decision after hearing, unless the particular authorization is necessary to the maintenance or conduct of an existing service.

The protest rule has resulted in substantial delays in the construction and operation of new television or radio stations authorized by the Commission without hearing. For any "party in interest" may file a protest and the term "party in interest" has been held by the courts to include existing stations in the same service as the grantee who might be adversely affected economically by the grant. In addition, relevant court decisions appear to indicate that stations in other services or other persons who might suffer economic injury as a result of competition afforded by the new stations would be parties in interest entitled to protest. Furthermore, if the protestant shows himself to be a party in interest and details his objections to the grant, one interpretation of the present statute is that the Commission is required to designate the application for hearing on the issues specified in the protest and cannot dispose of the protest, as on demurrer, on the pleadings. The Commission has taken the position that where it finds that the matters raised by the protest would not require the grant to be set aside, even if the factual allegations are assumed to be proven, the protest may be disposed of on the pleadings or, where substantial legal questions are involved, after oral argument on the legal issues, without designating the application for a full evidentiary hearing. However, it is recognized that the present language of section 309 (c) leaves in doubt the Commission's authority to dispose of a protest on the basis of the pleadings or after oral argument. It is believed that the statute would be amended so as to make clear that the Commission has authority to demur to the pleadings, in order to insure that it would not be necessary to hold evidentiary hearings which could serve no useful purpose and which would therefore be contrary to the public interest by delaying the initiation of a new or improved radio service. Such hearings, it should be indicated, not only delay the effectiveness of the particular authorization involved but also occupy the time and efforts of mem-

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bers of the Commission's limited staff who could otherwise be utilized in connection with other proceedings, including necessary hearings involving competitive television applications.

There is also some question under the present language of section 309 (c) as to whether the Commission must, in designating a protest for hearing, include the precise issues which the protestant has set forth regardless of the manner in which such issues have been drafted by the protestant. The Commission has held that where the protestant's issues are drawn too broadly or include matters not covered by the facts relied on, it has the authority to redraft the issues to reflect accurately the substantive matters raised in the protest. Here again, however, the Commission's authority is not entirely free from doubt, and a clarifying amendment to the statute is considered appropriate.

As indicated above, the final provision of section 309 (c) makes it mandatory for the Commission, once a protest has been granted, to postpone the effective date of the Commission's action to which protest is made until the effective date of the Commission's decision after the hearing on the protest. The only exception to this mandatory stay provision is when the authorization protested is necessary to the maintenance or conduct of an existing service, in which event the Commission may authorize the use of the facilities in question pending the Commission's decision after hearing. This has required staying the effectiveness of all authorizations for new facilities when protests have been granted, despite the fact that in some instances the public interest clearly required that the authorization remain in effect and the new series be inaugurated pending the outcome of the protest hearing. It is believed that an amendment is necessary which would give the Commission discretion to deny a stay in those cases where it can find on the record that the public interest clearly requires such action.

In order to obviate these difficulties the enclosed proposal would amend section 309 (c) to make clear that while any party in interest could protest a grant of a permit made without hearing, such protest would not automatically result in staying the effectiveness of the grant or require a hearing regardless of the merits of the claims advanced by the protestant. Instead, the proposed new language would provide that within 30 days of the filing of such a protest the Commission upon consideration of the protest, and any reply thereto, would issue a decision as to the legal sufficiency of the protest as to standing and the particularity of the matters alleged as grounds for setting aside the grant. In the event the Commission finds in the affirmative as to these matters, it would be required to designate the application for hearing upon issues relating to all matters raised in the protest, except that the Commission could exclude such matters as to which it finds that, even if the facts alleged by the protestant were proven, they would not constitute grounds for setting aside the grant. The amendment further provides that if a protest is designated for hearing, the effective date of the grant shall be postponed, unless the authorization is necessary for the continuation of an existing service, or unless the Commission affirmatively finds, for specified reasons, that the public interest requires the grant to remain in effect. It is believed that the revised language would achieve the apparent objective of the protest rule in affording interested parties an opportunity to bring to the attention of the Commission questions about grants made without hearing and to obtain a determination thereon. At the same time, it would avoid the utilization of the protest rule as a device for delay on the part of competitors.

The Commission, therefore, recommends that section 309 (c) should be amended as set forth in the attached proposed bill. The submission of this proposal to the Congress has been approved by the Bureau of the Budget. If there is any further information concerning this matter which the Commission can furnish, please do not hesitate to let us know. There are also attached the separate views of Commissioner Doerfer concerning this matter.

GEORGE C. MCCONNAUGHEY,
Chairman.

SEPARATE VIEWS OF COMMISSIONER JOHN C. DOERFER

Commissioner Doerfer believes that section 309 (c) of the Communications Act should be repealed in its entirety. It is inconsistent with the philosophy of the act which seeks to provide for the public interest within the framework of competition.

"Plainly it is not the purpose of the act to protect a licensee against competition, but to protect the public. Congress intended to leave competition in the business of broadcasting where it found it, to permit a licensee who was not

interfering electrically with other broadcasters to survive or succumb according to his ability to make his programs attractive to the public" (the *Sanders* case, 309 U. S. 470 (1940)).

Experience has shown that section 309 (c) demands an undue amount of Commission time, is used primarily for delay by competitors, and accomplishes no useful purpose. In effect, it creates two attorneys general to protect the public interest, the FCC, and private parties. Governmental agencies are established upon the theory that they are competent and conscientious to protect the public interest. There is no more need for two attorneys general in such matters than for two district attorneys in a criminal case.

If the Commission, through inadvertence, illegality, or impropriety, makes a grant, all that is necessary to protect the public interest is to call the Commission's attention to the facts and to submit evidence or indicate a source of probative evidence to protect the public interest. Misfeasance, if any, on the part of the Commission should be dealt with directly not by the creation of an official kibitzer. The idea that the public should be denied a service pending selfish and self-serving maneuvers by competitors is wholly foreign to the American concept of administrative agencies. These were created primarily to expedite matters. Section 309 (c) is an obstruction to the prompt expedition of many matters before the Federal Communications Commission. To illustrate: Recently out of 1,400 minutes of deliberation by 7 members of the Commission, 397 minutes were spent considering protest matters, or a total of 28 percent of full Commission time. This constitutes a demand for an undue proportion of time on matters which eventually prove to contribute little, if anything, to the protection of the public interest.

JUSTICE DEPARTMENT,
June 23, 1955.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Interstate and Foreign Commerce,
United States Senate, Washington, D. C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 1648) to amend section 309 of the Communications Act of 1934, in regard to protests of grants of instruments of authorization without hearing.

The bill would amend subsection (c) of section 309 of the Communications Act of 1934 (47 U. S. C. 309), which provides for the filing of protests to licenses granted, pursuant to section 309 (a), without a hearing. Under the present provisions of section 309 (c) the filing of such a protest postpones the effective date of the authorization until after hearing and decision by the Commission unless the authorization involved is necessary to the maintenance or conduct of an existing service, in which event the Commission shall authorize the applicant to utilize the authorization pending the Commission's decision. The bill would change the existing law so as to permit the applicant to use the authorization not only when the use thereof is necessary to the maintenance or conduct of an existing service, but also if the Commission finds that the public interest requires that the grant remain in effect.

Whether the bill should be enacted involves a question of policy concerning which this Department prefers to make no recommendation.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

FEDERAL COMMUNICATIONS COMMISSION,
Washington 25, D. C., July 11, 1955.

Hon. JOHN L. PASTORE,
United States Senate, Washington 25, D. C.

DEAR SENATOR PASTORE: Pursuant to permission which you granted to the Commission on Thursday last to supplement its testimony with respect to S. 1648, we are writing this letter to address ourselves to several of the problems which arose during the course of the hearing before your subcommittee.

First of all, we should like to comment on the statement made by Mr. Benedict P. Cottone on behalf of the UHF Industry Coordinating Committee and object-

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ing to the provision in the bill which would give the Commission discretion to authorize a grantee to utilize his facilities while a protest hearing is proceeding where the Commission "affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect." As we understand Mr. Cottone's objection to this proposal, it is primarily based upon his contention that where the Commission has found a protest must be set for evidentiary hearing, it is inconceivable that the public interest would not require the protested grant be stayed. This position in turn apparently rests upon Mr. Cottone's assumption that where the Commission is unable to demur to an issue, it must be assumed that the issue raises such substantial questions of public interest that it would not be appropriate to permit the grant to become effective until the issue is resolved.

We think this argument misconceives both the nature of the demurrer procedure and the limited scope of discretion which the amendment in question would give to the Commission to refrain from staying the effectiveness of a protested grant. While the power to demur to individual issues set forth in a protest is a valuable one, it is limited by the requirement that all unresolved questions of fact must, for the purposes of the demurrer, be assumed to be as protestant alleges. This will inevitably mean that there would be situations where an evidentiary hearing will still be required to resolve these issues of fact even though, on the basis of information supplied by the opposing parties or otherwise known to the Commission, the likelihood is extremely remote that the protested grant will ultimately have to be set aside. In the second place, there appears to be an assumption that the Commission would exercise its discretion to keep protested grants in effect as a matter of course. It is clear, however, from the language of the proposal itself, that the Commission would be authorized to exercise this discretion only where considerations of public interest so required.

It must be kept in mind in considering this problem that, from the standpoint of those protestants whose principal concern is protecting themselves from competition, the stay of the grant's effectiveness is a primary objective of the protest. Therefore, it can be expected that such protestants will, to the extent possible, include factual allegations in their protests which will have to be resolved by an evidentiary hearing rather than upon demurrer. Their success in such endeavors, however, will by no means necessarily indicate any probability of success in proving that the grant would not serve the public interest. On the contrary, as indicated above, the Commission will in many cases be in possession of information strongly indicating the probable invalidity of the protestant's claim, and yet be unable to dispose of it without an evidentiary hearing. It is not a sufficient answer to say that since a protest must be filed under oath it may be assumed that the facts alleged therein are necessarily or even probably correct. As you are aware, there are innumerable situations where, even with the best of intentions, facts alleged to exist—particularly allegations based "on information or belief"—in fact do not exist. The ingenuity of the protestant in pleading nondemurrable facts should not be confused with either the validity of the basic claim to which these facts relate or their relation to the public interest in authorizing new or additional radio facilities.

It is for these reasons that the Commission strongly believes it must be afforded the limited degree of discretion it has asked to permit a grant to remain in effect where it affirmatively finds that the public interest so requires. And it must be stressed that this discretion to decide whether the effectiveness of the grant should be suspended is substantially less than that presently enjoyed by the Commission in passing upon petitions for rehearing or reconsideration under section 405 of the act and by the courts in considering requests for stays upon appeal. There have been several recent cases involving appeals from Commission actions in protest cases in which the courts, in the exercise of their discretion, have denied a request for stay pending appeal, but have in the very same order specifically indicated that the appeal presented substantial and serious questions of law. (See *Signal Hill Telecasting Corporation* v. *Federal Communications Commission*, Case No. 12211, C. A. D. C., Order of May 18, 1954; *Channel 16 of Rhode Island, Inc.* v. *Federal Communications Commission*, Case No. 12537, C. A. D. C., Order of January 28, 1955.) In these cases the court recognized that in spite of the substantial issues found to be involved, the paramount consideration of the public interest required denying a stay. Similar considerations may be present at the time the Commission passes upon protests. And, as indicated above, there is no reason to assume that in all such protest cases, as in the two cited appeal cases, substantial issues of fact and law will necessarily be involved.

We are well aware of the very real inconvenience to the public attendant upon any removal from the air of a radio and television service once it has commenced operation. For that reason, the Commission, in exercising the discretion we are urging it be given, would not only consider whether the protested authorization is required to provide important services to substantial areas or populations which would otherwise have to do without, but also whether the issues designated for hearing present probable grounds for setting aside the Commission's previous determination that the grant in question would serve the public interest. We recognize that these judgments by the Commission will not always be infallible and that in some instances where the protested grant has been allowed to go to effect, the Commission may after hearing determine that it must be set aside or the courts may on appeal reverse the Commission's determination affirming the grant. However, we think it clear that the interest of the public both in securing needed services at the earliest practicable moment and in not having established services upon which they rely subsequently terminated, can best be protected where these determinations are made on the basis of the disinterested exercise of the Commission's discretion, subject to court review, rather than upon the basis of any automatic requirement for stay which does not take the paramount interests of the public into account.

We should also like to comment upon the question of whether the oral argument, which would be required under the bar association's amendment before the Commission could demur to a protest, would have to be held within 30 days from the date the protest was filed. The Commission does not construe the amendment proposed by the Federal Communications Bar Association as imposing any such requirement. We believe that a fair reading of the language of the bill as proposed to be amended would permit the Commission to schedule oral argument upon the issues which it believes may be demurrable within a reasonably short period subsequent to the Commission's initial decision as to the nature and status of the protest. Of course, the Commission would have to decide within the 30-day period not only whether the protestant was a party in interest and had specified with particularity why it believed the grant should not be made, but also whether particular issues should be immediately set for evidentiary hearing or designated for oral argument looking towards a decision on demurrer.

We are stressing the interpretation the Commission intends to give to this proposed amendment because we are convinced that any other interpretation would make the entire procedure absolutely unworkable. For we are convinced that in many cases the Commission will not be able to consider a protest and the oppositions which may be filed thereto, issue an order designating some or all of the issues for oral argument, hold this oral argument and then issue a further decision on the matters which have been there discussed, all within a 30-day period following the filing of the protest. It must be remembered in this connection that many of the protests which have been and will be filed contain a number of issues, some of which, even though they may be demurrable, involve serious and difficult questions of law and policy. The entire objective of affording a protesting party oral argument after demurring to any of the issues which he has raised would be defeated if the Commission were thus to be afforded inadequate time to give the necessary consideration to the arguments of the parties.

Finally, with respect to the question of the possible retroactive effect of the enactment of S. 1648 upon protest proceedings which are presently pending before the Commission or on appeal in the courts, we wish to reaffirm the position expressed in the letter to Congressman Harris which was read into the record last Thursday by the Acting General Counsel. The Commission is of the opinion that in the absence of any congressional statement of intent on the matter, it might be legally possible for the Commission to reconsider previous determinations as to whether evidentiary hearings are required or the effectiveness of grants should be postponed. However, we do not believe that the public interest would be served by reconsidering these determinations in the protest proceedings still pending before the Commission. The only exception to this view which the Commission has is with respect to cases where the Commission has issued a final decision denying a protest, either before or after hearing, and in which, pending a court appeal, the grantee has constructed its station and begun operation. Under these special circumstances the Commission believes that if it is reversed by the Court of Appeals, it should have the opportunity, in the event that the amendments to section 309 (c) have been enacted into law, to conduct any further proceedings upon the basis of the amended language of section 309 (c).

I hope that the above comments will help to clarify some of the questions which arose during the course of the hearings before your subcommittee. If there are

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any further comments which your subcommittee may desire, the Commission will, of course, be pleased to provide them. I wish to reiterate that the Commission considers this proposal to be of extreme importance and we hope that it will receive prompt and favorable consideration by your subcommittee.

Sincerely yours,

GEORGE C. MCCONNAUGHEY, *Chairman.*

FEDERAL COMMUNICATIONS BAR ASSOCIATION
Washington, D. C., July 14, 1955.

Re S. 1648, proposed amendment of section 309 (c) of the Communications Act.

Hon. JOHN L. PASTORE,
United States Senate,
Washington 25, D. C.

DEAR SENATOR PASTORE: At the recent hearings before your subcommittee, held July 7, 1955, on S. 1648, I presented the views of the majority of the executive committee of the Federal Communications Bar Association. One of the recommendations of the bar association was that S. 1648 should expressly provide for oral argument before the Commission prior to the decision by the Commission that, even if the facts alleged in a protest were to be proven, no grounds for setting aside the protested grant of an application are presented.

The executive committee of the Federal Communications Bar Association agrees with the statements in the letter dated July 11, 1955, from Chairman George C. McConnaughey to you that our proposed amendment to S. 1648 stipulating that an oral argument be held is not intended to mean that the oral argument must be held within 30 days from the date the protest was filed, and that "the language of the bill as proposed to be amended would permit the Commission to schedule oral argument upon the issues which it believes may be demurrable within a reasonably short period subsequent to the Commission's initial decision as to the nature and status of the protest. Of course, the Commission would have to decide within the 30-day period not only whether the protestant was a party in interest and had specified with particularity why it believed the grant should not be made, but also whether particular issues should be immediately set for evidentiary hearing or designated for oral argument looking toward a decision on demurrer."

The executive committee desires to call your attention to the fact that when the Commission has designated a protest for evidentiary hearing or for oral argument, the separation of functions provisions of sections 5 (c) and 409 (c) of the Communications Act become applicable, thus making it substantially impossible for the Commission to hold the oral argument within the 30 day period from the date the protest was filed.

Sincerely yours,

PERCY H. RUSSELL, JR., *President.*

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACTION UPON APPLICATIONS: FORM OF AND CONDITIONS ATTACHED TO LICENSES

SEC. 309. (a) * * *

(c) When any instrument of authorization is granted by the Commission without a hearing as provided in subsection (a) hereof, such grant shall remain subject to protest as hereinafter provided for a period of thirty days. During such thirty-day period any party in interest may file a protest under oath directed to such grant and request a hearing on said application so granted. Any protest so filed shall *be served on the grantee, shall contain such allegations of fact as will show the protestant to be a party in interest, and shall specify with particularity the facts relied upon by the protestant as showing that the grant was improperly made or would otherwise not be in the public interest. The Commission shall, within thirty days of the filing of the protest, render a decision making findings as to the sufficiency of the*

protest in meeting the above requirements; and, where it so finds, shall designate the application for hearing upon issues relating to all matters specified in the protest as grounds for setting aside the grant, except with respect to such matters as to which the Commission, after affording protestant an opportunity for oral argument, finds, for reasons set forth in the decision, that even if the facts alleged were to be proven, no grounds for setting aside the grant are presented. The Commission may in such decision redraft the issues urged by the protestant in accordance with the facts or substantive matters alleged in the protest, and may also specify in such decision that the application be set for hearing upon such further issues as it may prescribe, as well as whether it is adopting as its own any of the issues resulting from the matters specified in the protest. In any hearing subsequently held upon such application issues specified by the Commission upon its own initiative or adopted by it shall be tried in the same manner provided in subsection (b) hereof, but with respect to issues resulting from facts set forth in the protest and not adopted or specified by the Commission, on its own motion, both the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the protestant. The hearing and determination of cases arising under this subsection shall be expedited by the Commission and pending hearing and decision the effective date of the Commission's action to which protest is made shall be postponed to the effective date of the Commission's decision after hearing, unless the authorization involved is necessary to the maintenance or conduct of an existing service, or unless the Commission affirmatively finds for reasons set forth in the decision that the public interest requires that the grant remain in effect, in which event the Commission shall authorize the applicant to utilize the facilities or authorization in question pending the Commission's decision after hearing.

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Calendar No. 1247

84TH CONGRESS, 1st Session } SENATE { REPORT No. 1232

ALEXANDER HAMILTON BICENTENNIAL

JULY 28, 1955.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 1395]

The Committee on the Judiciary, to which was referred the bill (S. 1395) to amend the joint resolution to establish a Commission for the celebration of the 200th anniversary of the birth of Alexander Hamilton, approved August 20, 1954, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

AMENDMENT

On page 1, line 8, after the words "sums", insert the following:

, not to exceed $150,000 in addition to the sum of $25,000 heretofore appropriated,".

PURPOSE

The purpose of the proposed legislation, as amended, is to authorize additional appropriations to assist the Alexander Hamilton Bicentennial Commission to carry out its plans for signalizing the 200th anniversary of the birth of Alexander Hamilton.

STATEMENT

The Alexander Hamilton Bicentennial Commission was created by Public Law 601, 83d Congress (68 Stat. 746), approved August 20, 1954. The Commission has the duty of preparing plans and a program for signalizing the 200th anniversary of the birth of Alexander Hamilton. Any expenses of the Commission are to be appropriated by the Congress.

Pursuant to Public Law 601, the Speaker of the House of Representatives, on August 21, 1954, appointed the following Representatives as members of the Commission:

Hon. Frederic R. Coudert, Jr., of New York.
Hon. Thomas E. Martin, of Iowa.
Hon. Peter W. Rodino, Jr., of New Jersey.
Hon. John J. Rooney, of New York.
Hon. Carroll Reece named to succeed Hon. Thomas E. Martin.

The President of the Senate on November 17, 1954, appointed the following Senators to be members of the Commission:

Hon. Harry Flood Byrd, of Virginia.
Hon. Thomas C. Hennings, Jr., of Missouri.
Hon. Irving M. Ives, of New York.
Hon. Karl E. Mundt, of South Dakota.

The President of the United States, on January 11, 1955, the 198th anniversary of Hamilton's birth, appointed the following persons as members of the Commission:

Milton G. Baker, of Pennsylvania.
Edward R. Burke, of Maryland.
Mrs. Marie Coffin, of the District of Columbia.
George M. Humphrey, Secretary of the Treasury.
Laurens M. Hamilton, of Virginia.
John A. Krout, of New York.
Clark Haynes Minor, of New York.
Mrs. Margaret W. Patterson, of New York.

On February 1, 1955, at the call of the Secretary of the Treasury, the Alexander Hamilton Bicentennial Commission met in the Secretary's office for the purpose of organization. Senator Karl E. Mundt was elected Chairman, and Representative Frederic R. Coudert, Jr., was elected Vice Chairman, pursuant to the terms of the law. Mr. W. Randolph Burgess, Under Secretary of the Treasury for Monetary Affairs, was named Secretary of the Commission, and Mr. Robert A. Dillon, of the Treasury Department, was named Assistant Secretary.

At a public hearing on Thursday, June 30, 1955, conducted by the Standing Subcommittee on Federal Charters, Holidays, and Celebrations, Hon. Karl E. Mundt, United States Senator from South Dakota, and W. Randolph Burgess, Under Secretary of the Treasury for Monetary Affairs, testified in favor of the proposed legislation. At that hearing, it was stated that it was necessary for additional funds to be appropriated by the Congress, to enable the Alexander Hamilton Commission to carry out an adequate program for the commemoration of the 200th anniversary of the birth of Alexander Hamilton occurring in 1957. The proposed budget submitted by the Commission calls for a total appropriation of $364,570.33. The budget calls for $271,053.67 for a staff of 18 persons, an allowance for travel of $31,000, the sum of $20,666.66 to reimburse General Services Administration for office rent, and the sum of $41,850 to cover all other obligations including office supplies, communications, service, and other necessary expenses of the Commission.

The committee is advised that the work of the Commission will be to enlist the cooperation of patriotic, educational, professional, business, financial, historical, and learned societies and other interested groups; to correlate and coordinate their plans and activities into the overall program of the Commission. The budget submitted is for

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the 30-month and 11-day period beginning July 1, 1955, and ending January 11, 1958.

These plans for the activities of the Commission and undertaking by cooperating organizations include memorial meetings of official bodies in the States and certain cities; the publication of an authoritative and comprehensive edition of Hamilton's papers, reissues by publishers of out-of-print works on Hamilton, preparation and publication of a popular biography and a volume of his significant writings on subjects germane to our times; nationwide essay and oratorical contests in high schools, colleges, and universities; special lectures on Hamilton and his contemporaries in institutions of higher learning; historical exhibitions and special exhibits and displays; and the issue of special coins, stamps, and medals by the proper authorities.

Arrangements have been made with a leading university for the editing and publication with private funds of Hamilton's papers. Because so many papers of great historic value relating to Hamilton and his contemporaries have long been lost to view, publication will be facilitated by a nationwide "Treasure Trove Search" which the Commission will undertake as one of its early and continuing activities.

The value and importance of this search for historic papers is indicated by the experience of the editors of the Papers of Thomas Jefferson. Although Jefferson kept a record of each letter he wrote or received, the publicity attendant on the publication of the first 10 volumes of a projected 50 has brought to light enough new materials to require supplemental volumes for the period already covered in that publishing project.

The committee is aware of the fact that the Commission has requested from the Bureau of the Budget an estimated $122,162 as expenses for the fiscal year 1956. This request is based upon a much larger authorization than is here allowed by the committee. The committee intends that this authorization of not to exceed $150,000 in addition to the sum of $25,000 heretofore appropriated will be for the entire life of the Commission, subject to further consideration of additional authorization by the Congress if the need is demonstrated.

The plans contemplated by the Commission will bring to the attention of this Nation the principles underlying the tremendous contributions to our present day well-being made by Alexander Hamilton. The committee therefore believes that this proposed legislation, as amended, is necessary and recommends that S. 1395, as amended, be favorably considered.

Attached hereto and made a part hereof is a letter from the Secretary of the Commission addressed to Hon. Joseph C. O'Mahoney, chairman of the Subcommittee on Federal Charters, Holidays, and Celebrations of the Committee on the Judiciary.

ALEXANDER HAMILTON BICENTENNIAL COMMISSION,
Washington, D. C., July 25, 1955.

Hon. JOSEPH C. O'MAHONEY,
United States Senate, Washington, D. C.

DEAR SENATOR O'MAHONEY: This is in response to your inquiry about the plans of Columbia University with respect to the writings of Alexander Hamilton.

Columbia University has announced plans to edit and publish the complete writings of Alexander Hamilton. The compilation, which will require several years of research and editing, is to be published in 10 volumes by the Columbia University Press. The project, which will cost about $200,000, will be aided by recent grants made by the Rockefeller Foundation and Time, Inc.

The estimated sale price of each volume is approximately $10, or $100 per set. Distribution will be through normal book channels. No free distribution is planned.

As one of its early activities the Hamilton Commission plans to conduct a nationwide treasure-trove search for new and significant documents concerning Hamilton and his contemporaries. It is the hope of the Commission that this search will serve to focus public attention on Hamilton and the early history of the Republic and thus aid in getting support and attention for the other activities which are being planned for the bicentenary.

The only commitment made to Columbia University and the Columbia University Press by the Alexander Hamilton Bicentennial Commission is that the Commission will make available to Columbia copies of all documents relating to Hamilton becoming available through the Commission's activities. The Commission plans to give the Library of Congress photocopies of such documents (which are not expected to exceed a few hundred in number). At the same time it will provide duplicate photocopies to Columbia for use in its preparation of a definitive edition of the papers of Alexander Hamilton.

Columbia University is now making photocopies of the known Hamilton manuscripts which exist in more than 50 collections in 18 university and public libraries as well as in the Library of Congress. This is being done at Columbia's expense.

The Definitive Writings of George Washington were published in 40 volumes by the United States Commission for the Celebration of the 200th Anniversary of the Birth of George Washington as a congressional memorial to George Washington. They were printed by the Government Printing Office between 1931 and 1944.

The only figures available on costs of publication immediately available are from the 1932 report of the Commission, when not more than 2 of the 40 volumes had appeared. At this point the accumulated costs of printing and binding totaled $71,170.74, less than 10 percent of the Commission's expenditures to that date. No figures on the editorial cost to that date are given.

Under the act setting up the Commission as amended June 23, 1934, it was provided that 3,000 sets of the Washington volumes should be printed. Of these, 2,000 sets were to be sold at $50 per set to public libraries and institutions and societies of learning, with the remainder of the 2,000 sets to be sold generally at $75 per set. The other 1,000 sets were distributed to officials of the Federal Government, Members of the Congress, and libraries in the executive department. What sets remained were to be distributed as the Library of Congress might direct. The usual number for congressional distribution and depositary libraries were not to be printed.

The Government Printing Office is undertaking to establish the total cost of publication of the Definitive Writings of George Washington but that may not be available before the committee meeting.

Sincerely yours,

W. RANDOLPH BURGESS,
Secretary, Alexander Hamilton Bicentennial Commission.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 601—AUGUST 20, 1954 (68 STAT. 747)

* * * * * * *

SEC. 7. There are hereby authorized to be appropriated such sums [as may be necessary to carry out the provisions of this joint resolution, but in no event shall the sums hereby authorized to be appropriated exceed a total of $10,000.], *not to exceed $150,000 in addition to the sum of $25,000 heretofore appropriated, as the Congress may determine to be necessary to carry out the provisions of this joint resolution.*

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